United States Senate

WASHINGTON, DC 20510

AL 10-000-7211

April 29, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our concern about the pending proposed Maximum Achievable Control Technology rule for industrial, commercial and institutional boilers and process heaters (Boiler MACT). While the rule originally was scheduled to be proposed on April 15, we understand that the deadline has been extended to April 29 to allow for further deliberation on the rule. We appreciate your taking the care to ensure that the rule is carefully designed to protect public health and the environment in a cost-effective manner.

As our nation struggles to recover from the current recession, we are concerned that the potential impact of pending Clean Air Act regulations could be unsustainable for U.S. manufacturing and the high-paying jobs it provides. As the national unemployment rate hovers around 10 percent, hundreds of thousands of manufacturing workers have lost their jobs in the past year alone. The flow of capital for new investment and hiring is still seriously restricted and could make or break the viability of continued operations. Both small and large businesses are vulnerable to costly regulatory burdens, as well as municipalities, universities, federal facilities, and commercial entities. While we support efforts to address health threats from air emissions, we also believe that regulations can be crafted in a balanced way that sustains both the environment and jobs.

We understand that the Boiler MACT rule could impose tens of billions of dollars in capital costs at thousands of facilities across the country. Thus, we appreciate your willingness, as expressed in your responses to other recent congressional letters, to consider flexible approaches that appropriately address the diversity of boilers, operations, sectors, and fuels that could prevent job losses and billions of dollars in unnecessary regulatory costs. We recommend that EPA allow facilities to demonstrate that emissions of certain pollutants do not pose a public health threat and set appropriate emission thresholds that reflect the lack of a health concern. In addition, we suggest that EPA propose a reasonable method to set MACT limits based on what real world best performing units can achieve. EPA should not ignore any biases in its emissions database, the practical capabilities of controls or the variability in operations, fuels and testing performance across the many regulated sectors.

We appreciate the opportunity to provide EPA these comments. Thank you for your consideration of these views.

Sincerely,

Blanche L. Lincoln
Senator Blanche L. Lincoln

Mark Pryor
Senator Mark Pryor

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 2 0 2010

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of April 29, 2010, co-signed by one of your colleagues, to the U.S. Environmental Protection Agency (EPA) concerning the potential economic impact of upcoming new standards for industrial, commercial, and institutional boilers and process heaters. You expressed concern that these new standards could impose significant capital costs at facilities across the country, potentially causing hardship to local economies, as well as job losses. As you may know, the Administrator signed the proposed standards for hazardous air pollutants (HAP) from industrial boilers and process heaters on April 29, 2010.

The Clean Air Act (CAA) requires EPA to promulgate regulations for the control of HAP emissions from each source category listed under section 112(c). The statute requires the regulations to reflect the maximum degree of reductions in emissions of HAP that is achievable, taking into consideration the cost of achieving emissions reductions, any non-air quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as maximum achievable control technology (MACT). For new sources, MACT-based standards cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT-based standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission control achieved by the best-performing 12 percent of existing sources.

In your letter, you encouraged us to allow facilities to demonstrate that emissions of certain pollutants do not pose a public health threat and set appropriate emission thresholds. Section 112(d)(4) of the CAA does allow the Administrator the discretion to set a health-based standard for a limited set of HAP: "pollutants for which a health threshold has been established," but the use of section 112(d)(4) authority is wholly discretionary. Thus, while we have discretion to set a health-based standard under section 112(d)(4) where we believe a pollutant has an established health threshold, that discretion must be exercised reasonably. Although we have not proposed this approach, we are requesting comment on health–based compliance alternatives (HBCA) for hydrogen chloride (HCl) and other acid gases. We will consider these comments in making a final determination as to whether to adopt HBCA for HCl and other acid gases in the final regulations, which are scheduled for Administrator signature on or before December 16, 2010.

You also requested that EPA provide flexible approaches in the Boiler MACT rule, appropriately addressing the diversity of units, operations, sectors, and fuels, and setting limits based on what real-world, best-performing units can achieve. Section 112 of the CAA allows EPA to divide the source category into subcategories. For this MACT rulemaking, we have proposed emission standards for eleven subcategories based on the diversity of units, operational characteristics, and fuels. In developing the proposed limits, we have considered the variability in emissions due to operation, fuel, and testing. During the proposal process, we discussed the merits of each approach with all parties who have taken an active interest in this rulemaking. We held meetings with stakeholders from numerous individual companies, environmental groups, trade groups, State and local officials, and other interested parties.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

Gina McCarthy
Assistant Administrator

MARK PRYOR
ARKANSAS
COMMITTEES:
APPROPRIATIONS
COMMERCE, SCIENCE, AND TRANSPORTATION
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SMALL BUSINESS AND ENTREPRENEURSHIP
RULES AND ADMINISTRATION
SELECT COMMITTEE ON ETHICS

United States Senate

WASHINGTON, DC 20510

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AL 10-001-3409

August 5, 2010

Lisa P. Jackson
U.S. Environmental Protection Agency
Administrator
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Ms. Jackson:

We write to express our concern regarding the EPA's proposed revisions to the National Ambient Air Quality Standard (NAAQS) for ozone.

As you know, on May 28, 2008, EPA lowered the primary standard for an allowable eight-hour ground level ozone measurement from 84 parts per billion (ppb) to 75 ppb. On January 6, 2010, EPA further proposed to revise the primary standard for ozone to between 60 and 70 ppb. A final rule is expected by August 31, 2010. EPA cites no new health studies as a reason for lowering the primary standard, but believes the prior administration did not go far enough in 2008 when the standard was lowered to 75 ppb.

Arkansas supports an ozone standard that protects human health and public welfare, and we are proud of our progress in improving air quality. Only one county in Arkansas, Crittenden County, has recently been in non-attainment and is now meeting the current standard. Clearly, Arkansas is working to meet the national ozone standards.

Along with a more stringent standard, EPA is proposing an accelerated schedule for designating areas for the primary ozone standard. Under the proposed rule, States would be required to make recommendations for areas to be designated as non-attainment by January 2011. A non-attainment designation can hinder economic development in an already struggling economy. According to a study by NERA Economic Consulting and Sierra Research, a 60 ppb standard in 2020 could result in the loss of 19,000 Arkansas jobs, reduce disposable income by $800 million per year, and decrease State tax revenues by $100 million per year.

We trust that EPA will recommend an ozone standard based on sound scientific evidence that provides the requisite human health and public welfare protection. In making this decision, we

request that EPA consider that Arkansas, and other states, are continuing to make progress on the execution of their State Implementation Plans and that States be given an opportunity to demonstrate a reduction in ozone concentrations to safe levels before federal sanctions such as non-attainment classification are imposed.

Thank you for your consideration, and we look forward to your prompt response. If you have questions, please contact Julie Barkemeyer (Senator Lincoln) at 202-224-7499 or Stephen Lehrman (Senator Pryor) at 202-228-3063.

Senator Blanche Lincoln

Senator Mark Pryor

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 9 2010

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

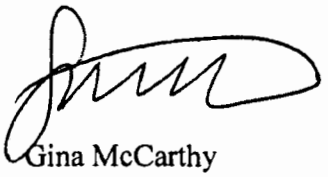
Thank you for your letter of August 5, 2010, co-signed by Senator Blanche Lincoln, regarding the reconsideration of the National Ambient Air Quality Standards (NAAQS) for ground-level ozone proposed by the U.S. Environmental Protection Agency (EPA) on January 19, 2010. As you acknowledge in your letter, EPA is committed to establishing ozone standards that are based on sound scientific evidence and that provide requisite public health and welfare protection.

You raised a number of issues related to implementation of a revised ozone NAAQS. It is important to remember that under the Clean Air Act, decisions regarding the NAAQS must be based solely on an evaluation of the health and environmental effects evidence. EPA is prohibited from considering costs or ease of implementation in setting or revising the NAAQS. EPA and states do consider costs in implementing these health-based standards. Note that cost estimates generated as part of EPA's Regulatory Impact Analysis (RIA) for the proposed ozone NAAQS are intended only for illustrative purposes and may not reflect the actual control strategies that would be adopted by state and local areas to meet any revised standards.

There are many factors that will affect how a revised standard is implemented, not the least of which is the final decision on the level of the standard. Whenever EPA establishes a new or revised NAAQS, the CAA requires the Agency to designate all areas in the nation as either meeting or not meeting the NAAQS. The CAA specifies that EPA must complete the designations process within 2 years unless EPA has insufficient information, in which case EPA may take up to one additional year. As part of the NAAQS reconsideration proposal, EPA took comment on whether to designate areas for any new 2010 ozone NAAQS approximately 1 year after a revised standard is issued. We are currently reviewing the public comments we received and determining what would be an appropriate designations schedule. I can tell you that states will not be required to make recommendations for areas to be designated as nonattainment by January 2011. We are also developing a proposed rule that would describe in detail our proposal regarding the SIP requirements, including timing and content of required submittals. We plan to propose this rule at the same time we finalize the standards. In addition, we will be working with states to minimize the SIP processing burden to the extent consistent with the CAA requirements.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Josh Lewis, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-2095.

Sincerely,



Gina McCarthy
Assistant Administrator

AL-10-002-0369

United States Senate

WASHINGTON, DC 20510

December 13, 2010

The Honorable Lisa Jackson,
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable Jacob Lew, Director
Office of Management and Budget
Eisenhower Executive Office Building,
Room 208
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Administrator Jackson and Director Lew:

We write to express our concern regarding the potential impacts of pending Clean Air Act (CAA) regulations that the U.S. Environmental Protection Agency (EPA) is redeveloping for brick and structural clay processes, known as the Maximum Achievable Control Technology (Brick MACT) rule. Given our country's fragile economic recovery, this issue is critical for the continued viability of brick manufacturers and distributors in our states and the hundreds of thousands of jobs they generate nationwide. While we fully support the EPA's efforts to address risks from emissions, we request that the EPA work to produce a fair and achievable Brick MACT that reflects Congress's intent both to protect public health and the environment and to preserve jobs in communities throughout the country.

As you know, the brick industry spent approximately $100 million between 2003 and 2006 to achieve full compliance with the original Brick MACT standard, which the D.C. Circuit Court vacated more than a year later. While the EPA now works to balance environmental and economic interests in a revised Brick MACT standard, we are concerned that the final rule may impose unworkable restrictions on an industry already confronting significant economic challenges. In particular, many plants may be forced to remove pollution controls that were installed in good faith to comply with the original Brick MACT and install more stringent technologies that are incompatible with existing controls. The potential results of an unfeasible Brick MACT standard may be higher costs and lost jobs, as some brick companies may be forced to close plants because they cannot afford or even borrow the money needed for required capital investment to replace existing controls or add newly mandated controls.

The CAA provides the EPA with broad discretion to produce a range of technologically and economically feasible pollution control options that protect public health and the environment. With this in mind, we ask that the EPA make appropriate use of this discretion by considering flexible approaches authorized by the CAA to craft a proposed Brick MACT rule. These approaches may include:

- **Non-major sources.** Section 112 (a)(1)-(2) of the CAA defines two types of emission sources: "major" and "area." As the EPA calculates the MACT floor

for a category of "major" sources, we urge EPA to consider excluding brick kilns that are non-major sources, as required by CAA § 112 (d)(3)(A). These non-major sources include facilities that are no longer "major" because of air pollution control equipment installed in good faith to meet the original Brick MACT requirements.

- **Real-world best performing units**. The EPA should consider exercising its discretion under CAA § 112(d)(1)-(3) to subcategorize within a source category and ensure that the MACT floor for existing sources is based on an evaluation of emission limits that actually can be achieved by real-world best performing units in a given source category. The EPA should set realistic emission standards rather than develop unrealistic MACT floors for individual pollutants that no single source can achieve.

- **Health threshold standard**. CAA § 112(d)(4) also provides the EPA the flexibility to set emission standards for pollutants that do not pose a health risk because their concentrations are below an established safe threshold. During these difficult economic times, it is crucial that the EPA consider risk information and the potential use of its "health threshold" discretion that Congress provided to minimize unnecessary controls and costs when public health and the environment already are safeguarded.

Thank you for considering the incorporation of environmentally responsible and cost-effective approaches as the EPA develops the proposed Brick MACT rule. A reasonable and achievable standard will ensure that public health and the environment are protected and that this essential industry can continue to create jobs in our states and help our struggling economy rebound.

Sincerely,

Kay R. Hagan
U.S. Senator

Richard Burr
U.S. Senator

Evan Bayh
U.S. Senator

Lamar Alexander
U.S. Senator

Robert Casey
U.S. Senator

Saxby Chambliss
U.S. Senator

Mary L. Landrieu
U.S. Senator

John Cornyn
U.S. Senator

Ben Nelson
U.S. Senator

Kay Bailey Hutchison
U.S. Senator

Mark Pryor
U.S. Senator

Johnny Isakson
U.S. Senator

Debbie Stabenow
U.S. Senator

George V. Voinovich
U.S. Senator

Mark Warner
U.S. Senator

cc: Regina McCarthy, Assistant Administrator, Office of Air and Radiation, EPA
Robert Perciasepe, Deputy Administrator, EPA
Cass Sunstein, Administrator, Office of Information and Regulatory Affairs, OMB

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 2 8 2011

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

I am writing today to update you on the U.S. Environmental Protection Agency's (EPA) activities surrounding the establishment of National Emissions Standards for Hazardous Air Pollutants (NESHAP) for the brick and structural clay products industry. As you know, establishing these standards is not discretionary. EPA is required to set such standards under section 112(d) of the Clean Air Act. EPA finalized a NESHAP for the brick and structural clay products industry in 2003, but the United States Court of Appeals for the District of Columbia Circuit vacated and remanded that rule in 2007. We are in the process of responding to the remand and are in the initial stages of crafting a new rule. In the meantime, however, the brick and structural clay products industry remains unregulated under section 112(d) because no federal section 112(d) standard is in place. As a result, residents of many areas of the country are exposed to toxic air emissions from these facilities every day.

In developing the new standards, safeguarding public health is EPA's principal concern. The brick industry emits a number of air toxics, including hydrogen fluoride, hydrogen chloride, and toxic metals (antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead, and selenium). Exposure to these compounds has been demonstrated to cause health problems, including cancer.

We also recognize that the final rule must be fair, reasonable, and legally defensible. Having full emissions data from industry is critical to producing such a rule. At this point, EPA is working with industry to collect the most accurate information possible and to identify options for achieving the objectives of the Clean Air Act while minimizing the economic impact on brick and structural clay products manufacturers. The Agency will then develop a NESHAP for the brick and structural clay products industry that does not impose unnecessary regulatory costs and is legally sound. We have historically included synthetic area sources, which are sources whose "potential to emit" qualifies them as a major source, but which have voluntarily reduced their emissions to below the major source threshold, in major source MACT floor calculations. Both the Clean Air Act and its legislative history support this practice. The Clean Air Act requires the MACT floor to be calculated based on the best performing sources in the source category. Major sources that have reduced emissions below the major source threshold are among the best performing sources. Including such sources in MACT floor calculations ensures that MACT floors reflect the best-performing sources, as the CAA requires. However, we will consider your views in developing the proposed rule for brick and structural clay products industry.

EPA's emissions standards will be crafted in a way that reflects "real world" performance. In an effort to do so, EPA has asked the affected companies to submit technical data about their facilities' emissions, by sending them Information Collection Request (ICR) letters. This information is essential for EPA to craft a rule that accurately reflects "real world best performing units."

To avoid a long and uncertain rule-making process for the NESHAP for the brick and structural clay products industry, EPA needs to receive the appropriate data in advance of the proposal, which we intend to issue at the end of this year. I urge you to encourage your constituents in the brick and structural clay products industry to submit data that are as robust as possible, as quickly as possible, in response to EPA's ICR letter. EPA also encourages companies voluntarily to submit relevant data that might be outside the scope of the ICR. EPA will use data in conjunction with data received through the ICR to craft a proposed standard that reflects operational reality.

Industry has asked EPA not to consider certain factors related to the mined clay and shale used as raw materials in the manufacturing process when setting the NESHAP for the brick and structural clay products industry, and further to exercise discretion to set a health-based standard, based on risk assessments. We take their concerns seriously and will consider them as we move forward with the proposal, which we currently intend to issue by the end of this year.

I would like to reiterate that we are sensitive to the impact that a NESHAP might have on the brick and structural clay products industry. As we go forward, we are considering a variety of options based on the diversity of process units, operational characteristics, and other factors affecting HAP emissions. I can assure you that we will consider the concerns of the brick industry as we develop the proposed rule.

I hope this information has been useful. If you have further questions or would like future updates on this rule, please contact me or your staff may contact Cheryl Mackay in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

Gina McCarthy
Assistant Administrator

AL-11-002-0692

Congress of the United States
Washington, DC 20515

December 9, 2011

Administrator Lisa Jackson
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our concerns regarding upcoming steps in the Project for Water Quality Modeling and TMDL Development for the Illinois River Watershed in Arkansas and Oklahoma. Specifically, we request that you review the Project and ensure that all necessary resources are available to guarantee the validity of the Model.

Since 2000, the Illinois River Watershed has experienced rapid population growth. However, despite this development, "flow-adjusted monthly phosphorous loads have been significantly decreasing over time at the Illinois River, based upon data from 2002 through 2008."[1] This has been possible because our communities in Arkansas and Oklahoma invested more than $225 million over a decade to improve water quality. We have also reduced non-point source runoff through the implementation of nutrient management plans, volunteer efforts through non-profit groups like the Illinois River Watershed Partnership, and other efforts to put poultry litter and other potential nutrient sources to beneficial uses in other watersheds. We understand that the EPA has certain responsibilities in overseeing how Oklahoma's water quality standard may affect upstream sources in Arkansas, once the standard has been reviewed and becomes fully effective, and we want to help the EPA exercise its responsibilities in a way that is based on sound science and in a way that is evenhanded toward the people of Arkansas and Oklahoma.

As you know, the Model that EPA is developing will likely be used as the basis for regulatory and non-regulatory decision making with regard to further nutrient reduction efforts in the watershed. We believe most stakeholders, including the EPA, sincerely wish to avoid the use of flawed modeling, which could lead to the development of a Total Maximum Daily Load (TMDL) based on unsound information and accordingly inflict unneeded and inappropriate control mandates. Therefore, we are writing to request that you take vital steps to ensure that the Model is scientifically robust.

First, in an effort to maximize transparency and openness and to ensure quality in the modeling and potential TMDL development process, we request you provide the necessary resources so that the contractor (Aqua Terra) can conduct adequate model calibration studies, sensitivity analyses, uncertainty analysis, and related Model evaluations. The EPA's guidance document, titled *Guidance on the Development, Evaluation, and Application of Environmental Models*, makes clear that since this Model is likely to be the basis for determining the allocation of massive sums of public and private resources, the Model should meet the most rigorous level of evaluation that can realistically be performed.[2]

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[1] Haggard, B.E. 2010. Phosphorus Concentrations, Loads and Sources at the Illinois River, Arkansas, 1997-2008. Journal of Environmental Quality 39:2113-2120.
[2] EPA/100/K-09/003 | March 2009, accessed on October 31, 2011 at www.epa.gov/crem/library/cred_guidance_0309.pdf

Second, we appreciate statements from EPA officials at public meetings in Tahlequah, Oklahoma on January 6, 2011 and in Rogers, Arkansas on May 19, 2011 indicating that the Model will be made available to all interested stakeholders. We request that this be done before the Model is finalized and in such a way as to allow a formal process for, and sufficient time for, third parties to test the Model and to provide helpful feedback to the EPA and the EPA's contractor, Aqua Terra.

Third, models of complex systems, such as the Illinois River watershed, need to be thoroughly vetted with both internal and external peer review, as extensively outlined in the EPA's *Guidance on the Development, Evaluation, and Application of Environmental Models*. We believe internal and external peer reviews are absolutely vital components of this possible TMDL development process, and each should be fully executed. Please provide us with a report on the status of Project execution plans with regard to internal and external peer review.

Thank you for your attention to this letter. We expect to receive responses to the issues raised in this letter as soon as possible. Accordingly, we request that responses be provided on a rolling basis, if necessary, as they are prepared. Please do not hesitate to contact us with any questions or concerns you may have.

Sincerely,

Mark Pryor,
U.S. Senator

Jim Inhofe,
U.S. Senator

Tom Coburn,
U.S. Senator

John Boozman,
U.S. Senator

Dan Boren,
Member of Congress

Steve Womack,
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1445 Ross Avenue, Suite 1200
Dallas Texas 75202 - 2733

February 16, 2012

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your December 9, 2011, letter to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson discussing your concerns related to the Illinois River Watershed in Arkansas and Oklahoma, and specifically the EPA's ongoing efforts to develop a scientifically robust model of the watershed. Because the states of Arkansas and Oklahoma are within the jurisdiction of Region 6, I have been asked to respond to your concerns.

The EPA is keenly aware of the significant investments made by communities in both Arkansas and Oklahoma to improve water quality in the Illinois River Watershed, including those associated with the Statement of Joint Principles and Actions signed by agencies in both states in 2002. The EPA is also aware that Oklahoma's applicable phosphorus criterion is currently under review by the state. While much has been accomplished with respect to limiting phosphorus loads from both point and nonpoint sources in the watershed, there remains an ongoing need for continued collaboration among stakeholders. The present and future quality of the Illinois River, its tributaries, and the waterbodies into which it flows are not only important shared priorities for Arkansas and Oklahoma, but for the EPA as well. As noted in your letter, with the support and input of both Arkansas and Oklahoma, the EPA has been engaged in developing a multi-jurisdictional watershed model to better understand the relationships between sources of phosphorus and water quality conditions in the Illinois River Watershed, and to assess potential phosphorus load reductions necessary to meet water quality goals in both states. The EPA appreciates your interest in ensuring that the model we ultimately produce is scientifically sound, and we are taking important steps to achieve that result.

The EPA has prioritized inclusion of substantial stakeholder involvement at every decision point in the project. Since the outset of our model development efforts, the EPA has actively and purposefully reached out to states, tribes, and other interested stakeholders in the watershed to ensure that our model reflects the best available scientific information. The EPA has maximized the transparency of our public participation process through a public website devoted to model development and has solicited public input via a Federal Register notice, newspaper notices, and numerous public meetings involving stakeholders representing a broad range of interests from both states.

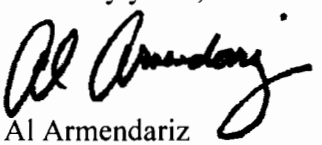
To further ensure the scientific integrity of our watershed model, the EPA has built into the project schedule avenues for stakeholders to provide input. The EPA conducts monthly conference calls with state and tribal agencies, as well as informational public meetings throughout the watershed to provide project updates and solicit stakeholder input. To date, the EPA has convened public meetings in Ft. Smith, Siloam Springs, and Rogers, Arkansas, as well as one in Tahlequah, Oklahoma. Additional meetings will be held as the project progresses.

Throughout the model development process, the EPA is sharing project deliverables for review and comment by interested stakeholders. To date, such deliverables include the Project Quality Assurance Project Plan (QAPP), the Data Gap Analysis Report, the GIS Database, the Water Quality Model Recommendation Technical Memorandum and the Simulation Plan and Modeling QAPP. Interested parties have provided valuable feedback. The EPA will continue to ensure states, tribes, and stakeholders are a part of the process and will make future deliverables and the model available for review at key points in the project before the model is finalized.

As reflected by the steps already taken by the EPA to ensure a thorough and rigorous review of our watershed modeling efforts, the EPA is committed to ensuring the scientific validity of our Illinois River Watershed model. We will continue to take advantage of available opportunities to gain critical feedback on our efforts, and we will give careful consideration to whether additional peer review over the extensive stakeholder reviews would benefit the process. In evaluating peer review options, the EPA must consider the availability of resources and the timeframes required for such reviews. While the agency must ensure the scientific rigor of our efforts, we are also committed to completing the work in a reasonable timeframe in order to avoid prolonged uncertainty on the part of regulated dischargers in the watershed.

If you have further questions, please contact me at (214) 665-2100, or your staff may contact Ms. LaWanda Thomas, Congressional Liaison, at (214) 665-7466.

Sincerely yours,



Al Armendariz
Regional Administrator

Identical letters sent to:

The Honorable Jim Inhofe
United States Senate

The Honorable Tom Coburn
United States Senate

The Honorable John Boozman
United States Senate

The Honorable Dan Boren
House of Representatives

The Honorable Steve Womack
House of Representatives

United States Senate

WASHINGTON, DC 20510

AL 13-000-8790

August 8, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

We are writing regarding the recent U.S. Court of Appeals for the D.C. Circuit decision to vacate the Environmental Protection Agency's (EPA) Deferral for CO2 Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs, known as the Deferral Rule.

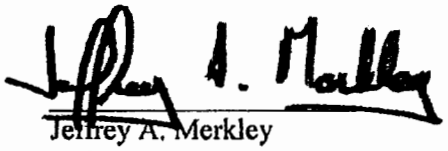
This decision by the D.C. Circuit has created significant uncertainty for biomass and forest products facilities that have recently received permits, have applications pending, or are planning to make significant capital investments. The majority opinion, however, confirmed that EPA retains the option of addressing biogenic emissions differently from fossil fuels in the future.

In light of the D.C. Circuit decision and the uncertainty it has caused for the forest products industry, establishing a policy for biogenic carbon emissions in a timely fashion is now more important than ever. We urge you to craft a solution that follows a simple, practical, science-based framework that recognizes the full carbon benefits of biomass and that approaches carbon from a national scale over a long time frame. Given the U.S. Department of Agriculture's expertise in the forest carbon cycle, we also encourage you to work closely with USDA in developing such a framework.

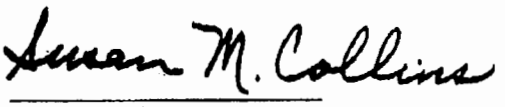
An overly complicated policy could have significant economic effects on existing biomass and forest products facilities, discourage biomass utilization as a renewable energy source, and threaten a stable forest land base.

Biomass is an important renewable resource, and we encourage EPA to move forward quickly to establish a solution that encourages its utilization.

Sincerely,

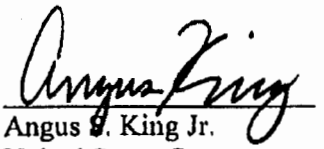


Jeffrey A. Merkley
United States Senator

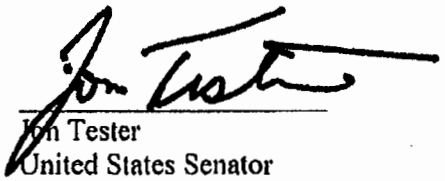


Susan Collins
United States Senator

Ron Wyden
United States Senator

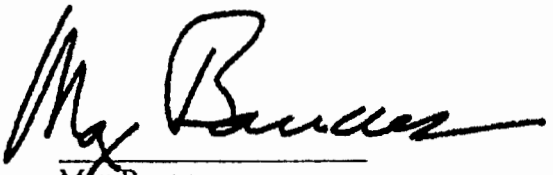


Angus S. King Jr.
United States Senator

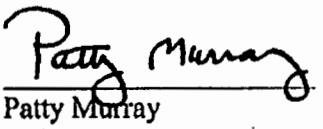


Jon Tester
United States Senator

Debbie Stabenow
United States Senator

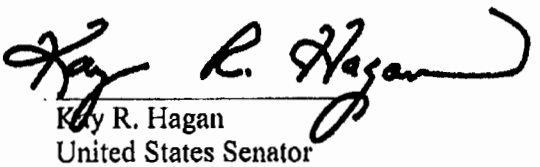


Max Baucus
United States Senator

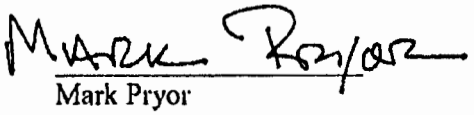


Patty Murray
United States Senator

Al Franken
United States Senator

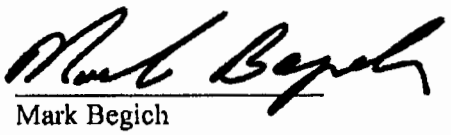


Kay R. Hagan
United States Senator

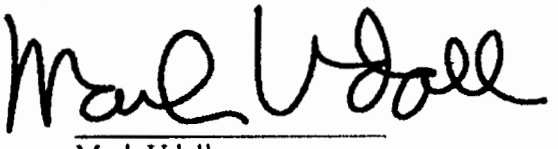


Mark Pryor
United States Senator

Bill Nelson
United States Senator



Mark Begich
United States Senator



Mark Udall
United States Senator

Jeanne Shaheen
United States Senator

AL 13-00094252

United States Senate

WASHINGTON, DC 20510

August 20, 2013

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy,

We write to request clarification on the Environmental Protection Agency's (EPA) interpretation of its authority under the current appropriations legislation with regard to enforcing the Spill, Prevention, Containment, and Countermeasure (SPCC) rule on farms. It has come to our attention that EPA is informing agriculture producers that it does have the authority to begin enforcing the SPCC rule retroactively beginning September 23. Congress has repeatedly raised concerns about the implementation of this rule within the agriculture sector, making these reports particularly unsettling.

In June 2011, we sent EPA a letter with 31 of our colleagues asking the Agency to do more outreach to the agriculture community on the rule and to delay its implementation. EPA agreed to extend the compliance deadline to May 10, 2013, but in the preceding months the agency did not conduct effective outreach. In addition to holding only a handful of nationwide outreach meetings, the EPA rejected the request of one growers association in New England to provide a briefing on how its members could comply with the rule.

When it became clear EPA would be unable to adequately educate farmers about the rule prior to the May 10, 2013 compliance deadline, the Senate adopted Amendment 29 to H.R. 933, the FY2013 Continuing Resolution appropriations bill, which was ultimately signed into law. This amendment prohibits EPA from enforcing the rule against farmers until September 23, 2013.

In May, the Senate adopted Amendment 801 by unanimous consent to S. 601, the Water Resources Development Act, which would permanently exempt most farmers from the SPCC rule. While the House has yet to take up S. 601, it did include a similar provision as part of H.R. 2642 that passed the House in July.

Congress has clearly established its intent to limit the impact of the SPCC rule on the agriculture sector, and to ultimately exempt the majority of it from having to comply. With this Congressional intent in mind, we ask whether the EPA would retroactively enforce this rule against the nation's agriculture producers? If the agency has no such plan, is it EPA policy that if a farmer or rancher were to have a plan in place on Sept. 23 and does not have a spill, EPA will view the operation compliant with the SPCC rule for farms? If the agency does plan to retroactively enforce the rule, will you please explain why you are doing this despite the clear,

bipartisan steps Congress has been taking over the past few months to limit this rule's impact on the agriculture community?

We appreciate your swift response to our questions.

Sincerely,

James M. Inhofe
United States Senate

Mark Pryor
United States Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 2 0 2013

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your August 20, 2013 letter requesting clarification about the Environmental Protection Agency's (EPA) enforcement of the oil Spill, Prevention, Control and Countermeasure (SPCC) rule as it pertains to farms. I appreciate your interest in this matter and welcome the opportunity to explain EPA's enforcement process and compliance activities related to this rule.

As you know, owners and operators of certain oil-handling facilities, including farms, have been subject to EPA's SPCC regulation at 40 C.F.R. Part 112 (including the requirement to have an oil spill prevention Plan) since 1974. In 2002, EPA revised the SPCC regulation and established a compliance date to provide existing facilities time to amend (and for new facilities time to prepare) and implement their Plans to comply with the amended SPCC regulation. EPA further amended the SPCC regulation in 2006, 2008, 2009 and 2011 to streamline and clarify SPCC requirements. The compliance date for farms has been extended a number of times to provide additional opportunities for those facilities to amend or prepare an SPCC Plan. EPA has also conducted extensive outreach to the farm community regarding these requirements, including working with the USDA, states, universities, and other entities to assist agricultural producers with their compliance obligations. There is additional assistance, information and resources available through EPA's "SPCC Ag" website to assist farmers in complying with the SPCC rule, including information to assist farmers that need extensions to meet the compliance dates for a SPCC Plan, at http://www.epa.gov/emergencies/content/spcc/spcc_ag.htm.

Although farmers who meet the program's regulatory thresholds were obligated to prepare or amend and implement their Plans by the May 10, 2013 compliance date (see 40 C.F.R. § 112.3(a)(3)), consistent with the requirements of the 180-day period under the Continuing Resolution (P.L. 113-6), EPA is not currently using Agency funds to inspect, seek information from, or otherwise investigate the SPCC compliance status of any owner or operator of a farm. Information you have received is incorrect; EPA has not been informing members of the agricultural community that at the end of the 180-day period the Agency will begin "retroactively" enforcing the requirements of the SPCC regulations as they apply to farms. We continue to provide compliance assistance to the agricultural community so that agriculture producers can meet their SPCC obligations in a timely fashion. Questions have arisen whether EPA expects to enforce the SPCC Plan requirement for the period between the compliance date of May 10 and the expiration of the 180-day period adopted by Congress. Given the unique

factors in this particular set of circumstances, absent a spill, the Agency does not intend to take enforcement action solely for the failure of a farm to have an SPCC Plan in place under 40 C.F.R. 112.3 (a)(3) during the period from May 10 to September 23, 2013.

Again, thank you for your letter. Should you have further questions, please contact me, or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-1859.

Sincerely,

Cynthia Giles

AL 05-001-8874

United States Senate

WASHINGTON, DC 20510

September 28, 2005

cc'd
Charles
Stephanie
John
Catherine
Chris
Cynthia
Jim W

The Honorable Bill Frist, Senate Majority Leader
The Honorable Harry Reid, Senate Minority Leader
United States Senate
Washington, DC 20510

Dear Senator Frist and Senator Reid:

Earlier this year, the Senate Environment and Public Works Committee approved S. 728, the Water Resources Development Act of 2005 (WRDA). The devastation along the Gulf Coast has served as a warning to America to shore up our defenses against catastrophic floods. With these vivid images in mind, we urge you to grant floor time for this bill prior to the completion of this session of Congress.

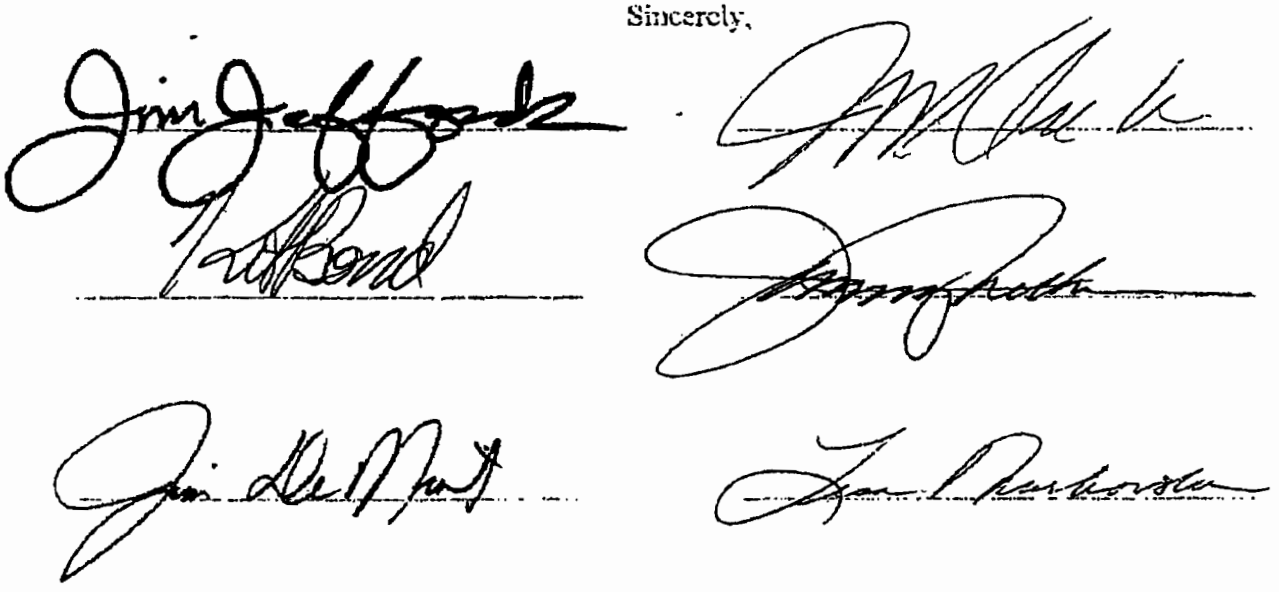
As you know, this bill authorizes critical flood control, storm damage reduction, and environmental restoration projects across the country. These projects will help protect America's communities from the destruction caused by severe weather and flooding, as well as enhancing natural means of protection by restoring our fragile ecosystems.

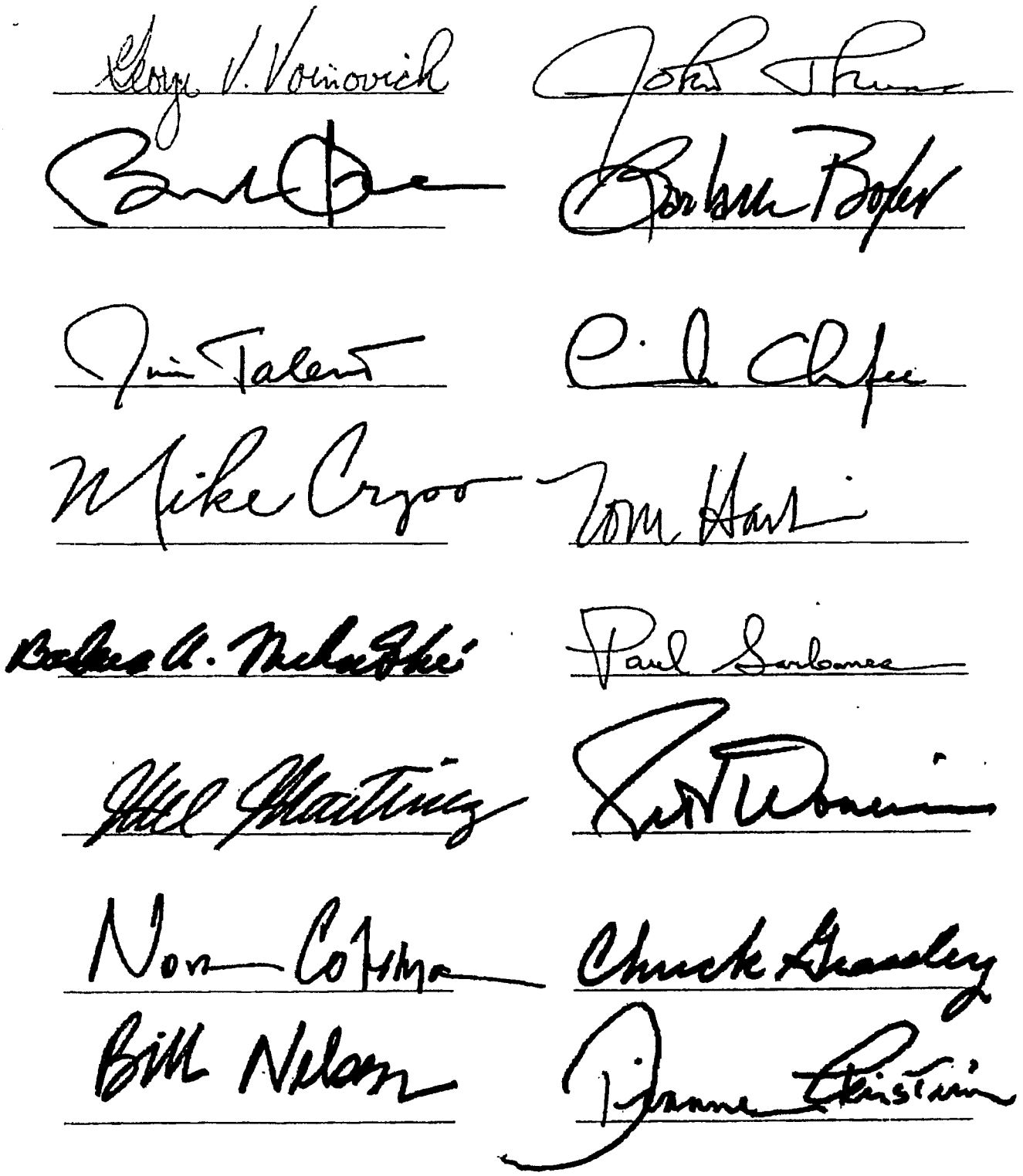
In addition, this legislation is needed to support our nation's vital waterways and ports -- key components of our national transportation system and our economy.

Hurricane Katrina taught the nation a tragic lesson: maintain and improve our aging flood control and water resources infrastructure or risk the ruin and destruction of our communities. This bill moves us in the right direction toward addressing and preventing these grave threats to public safety.

It has been nearly five years since the last WRDA was enacted into law. America's water resources and the communities they serve cannot afford any further delay. We urge you to act expeditiously to bring this very important bill to the full Senate for immediate consideration.

Sincerely,





David Vitter

Mary L. Landrieu

John Sununu

Kay Bailey Hutchison

Debbie Stabenow

Frank R. Lautenberg

Pat Roberts

Patty Murray

Sam Brownback

Mark Pryor

Ted Stevens

Daniel K. Inouye

Mark Dayton

Lamar Alexander

Robert C. Byrd

Blanche L. Lincoln

John Corzine

Mary Landrieu

R Wyden

7/6209

United States Senate

WASHINGTON, DC 20510

AL 07-000-1457 January 8, 2007

The Honorable George W. Bush
President of the United States
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear Mr. President:

As you prepare the Administration's fiscal year 2008 budget proposal, we strongly urge you to refrain from proposing harmful cuts that would seriously injure our nation's rural communities, U.S. farmers and ranchers, children and low income families, renewable fuels and critical research, and the important gains that we have made in the area of conservation.

Instead, we urge you to propose a robust, new investment in renewable fuels that will add to the budget savings already realized or forecast under current farm policy and make room for the Administration to propose additional funding in order to meet new priorities and policy objectives, including many identified by the Administration, without making harmful cuts to existing priorities.

As you know, current farm policy to date is estimated to be anywhere from $12 billion to $17 billion under budget, and the current CBO forecast suggests continued savings in the future assuming retention of current policies. These substantially reduced costs come as welcome news to those of us committed to reducing budget deficits and mitigating the potential for future WTO litigation.

Yet, based on the experience we have had with the current Farm Bill's Energy Title and with the Energy Bill, we are confident that a robust new investment in renewable fuels would not only further our nation's energy independence, but it would also further increase budget savings under U.S. farm policy. Importantly, this lower cost farm policy could be accomplished in a very positive and forward-looking manner, rather than through harmful budget cuts that would hurt our economy, reduce our competitiveness in the world, and cost us good paying American jobs.

Because of the substantial budget savings under current farm policy, coupled with the added savings achievable through an aggressive renewable energy policy, we are confident that there would be room for additional funding to be proposed by the Administration in order to meet important new priorities and policy objectives – and to do so without proposing harmful cuts to existing needs in rural America.

This approach would permit us to work to provide the necessary resources to build upon and improve important conservation, rural development, trade, nutrition, risk management, research, and commodity policies, including important initiatives for specialty crops.

Today we are fortunate to be presented with common-sense and positive options that can help achieve so many important policy objectives, including the Administration's objective of creating a farm policy that is predictable, equitable, and beyond challenge from our global trading partners – and do so without harming an important U.S. industry and costing good-paying American jobs. We urge you to take the first step in exercising this option in your upcoming budget proposal.

Thank you for your consideration. We look forward to working with you toward a responsible budget and a strong Farm Bill and renewable energy policy.

Sincerely,

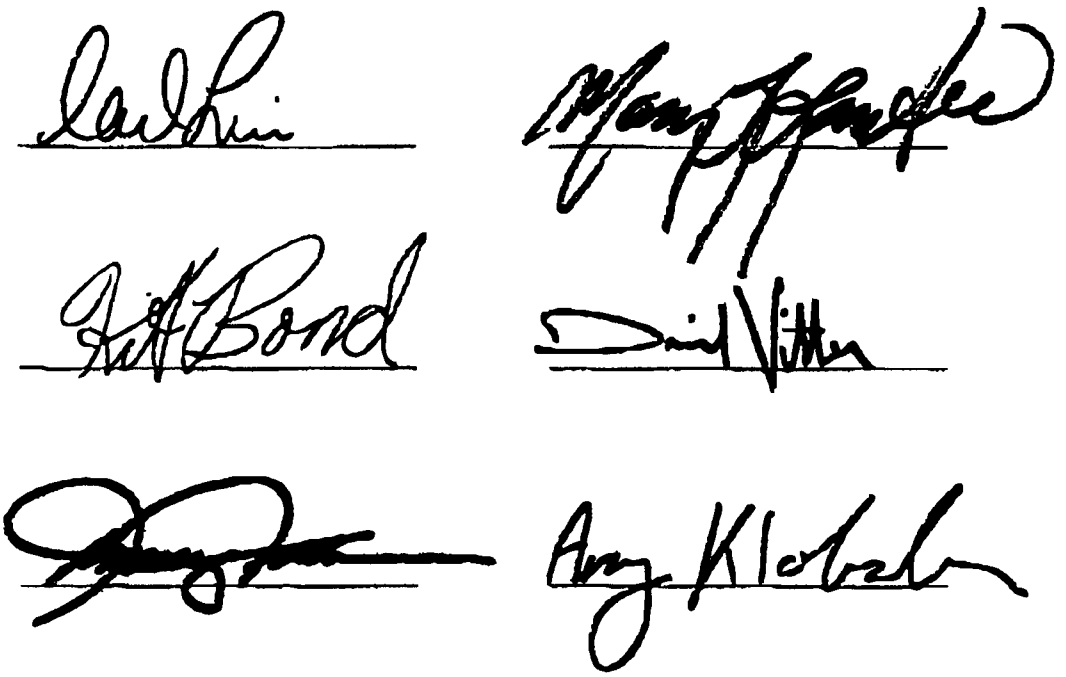
Blanche L. Lincoln Norm Coleman

Marc Pryor Saxby Chambliss

Max Baucus Mike Crapo

Ken Salazar John Thune

Debbie Stabenow Byron L. Dorgan



THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: 1/23/2007 **CASE ID: 716209**

NAME OF CORRESPONDENT: THE HONORABLE BLANCHE LINCOLN

SUBJECT: URGES MORE FUNDING IN THE FY08 BUDGET PROPOSAL FOR RENEWABLE FUELS AND THE FARM BILL

		ACTION		DISPOSITION		
ROUTE TO: AGENCY/OFFICE	**(STAFF NAME)**	**CODE**	**DAT**	**TYPE RESPONSE**	**CODE**	**COMPLETED**
LEGISLATIVE AFFAIRS	CANDI WOLFF	ORG	1/23/2007			
	ACTION COMMENTS:					
OFFICE OF MANAGEMENT AND BUDGET		A	1/23/2007			
	ACTION COMMENTS:					
DEPARTMENT OF ENERGY		I	1/23/2007		C	
	ACTION COMMENTS:					
ENVIRONMENTAL PROTECTION AGENCY		I	1/23/2007		C	
	ACTION COMMENTS:					
	ACTION COMMENTS:					

COMMENTS:

MEDIA: FAX

USER CODE: 15 ADDL SIGNEES

SCANNED BY ORM

ACTION CODES:	**DISPOSITION**		
	TYPE RESPONSE:	**DISPOSITION CODES:**	**COMPLETED DATE:**
A - APPROPRIATE ACTION B - RESEARCH AND REPORT BACK D - DRAFT RESPONSE I - INFO COPY/NO ACT NECCESSARY R - DIRECT REPLY W/COPY	TYPE RESPONSE = INITIALS OF SIGNER NRN = NO RESPONSE NEEDED	A - ANSWERED/ ACKNOWLEDGED C - CLOSED X - INTERIM REPLY	COMPLETED = DATE OF ACKNOWLEDGEMENT OR CLOSE-OUT DATE (MM/DD/YY)

REFER QUESTIONS AND ROUTING UPDATES TO DOCUMENT TRACKING UNIT (ROOM 84, OEOB) EXT-62590 KEEP THIS

WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO OFFICE OF RECORDS MANAGEMENT

THE WHITE HOUSE OFFICE
REFERRAL

January 23, 2007

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION REQUESTED: INFO AND FILE COPY ONLY/NO ACTION NECESSARY

CCU
Charlie
Stephanie
John
Catherine
Chris
Kevin

DESCRIPTION OF INCOMING:

ID:	716209
MEDIA:	FAX
DOCUMENT DATE:	JANUARY 08, 2007
TO:	PRESIDENT BUSH
FROM:	BLANCHE LINCOLN UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	URGES MORE FUNDING IN THE FY08 BUDGET PROPOSAL FOR RENEWABLE FUELS AND THE FARM BILL
COMMENTS:	

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT 456-2590.

RETURN **ORIGINAL** CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 84, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP
WASHINGTON, DC 20510-6350

AL 13-000-8117

July 23, 2013

Ms. Gina McCarthy
Administrator
U.S. Environment Protection Agency
Mail Stop 5401-P
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: EPA Proposed Rule: Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training (EPA–HQ–UST–2011–0301)

Dear Administrator McCarthy:

We are writing you in regards to the U.S. Environmental Protection Agency's (EPA) proposed rule amending 40 CFR Parts 280 and 281; Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training (EPA–HQ–UST–2011–0301), published in the Federal Register on November 18, 2011. In light of the regulatory cost impact of the proposed rule may have on small businesses, we respectfully request that the EPA convene a Small Business Advocacy Review (SBAR) panel to reanalyze the impact of this rule on small business and prepare an Initial Regulatory Flexibility Analysis (IRFA), before finalizing the proposed rule.

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), requires the EPA to convene a Small Business Advocacy Review (SBAR) Panel, prior to the publication of an Initial Regulatory Flexibility Analysis, to collect input towards determining whether a rule is expected to have a significant economic impact on a substantial number of small entities. An agency covered under SBREFA, such as the EPA, may circumvent this requirement if it can certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

After considering the economic impact of the proposed rule on small businesses, as required by the RFA, the EPA certified that the proposed rule would not have a significant economic impact and determined small business motor fuel retailers would experience an impact over 1 percent of revenues but less than 3 percent of revenues. However, according to some industry experts, annual compliance costs may reach as much as approximately $6,900, and may negatively impact approximately 60 percent of the convenience store industry comprised of single-store, mom-and-pop, businesses. We are concerned that the Agency's estimated annualized compliance costs of $900, included as part of the EPA's certification required under the RFA, may be significantly underestimated.

Additionally, the EPA stated in its certification that it conducted extensive outreach in order to determine which changes to make to the 1988 regulations and that it worked with representatives of owners and operators of underground storage tanks and reached out specifically to small businesses. Accordingly, we respectfully request information regarding the extent of that outreach, specifically when and in what manner that outreach was conducted. We also request information regarding the "representatives of owners and operators" and small businesses with which the Agency "worked" as part of this certification. Additionally, given the potential cost impact that this proposed rule would have on small businesses, and to maintain the spirit of the law as Congress intended, we respectfully request that the Agency form a SBAR Panel with small entity representation pursuant to the requirements set forth under the law and prepare an IRFA reanalyzing the impact of this rule on the small business community.

Sincerely,

MARY L. LANDRIEU
Chair

JAMES E. RISCH
Ranking Member

MIKE ENZI
Member

MARCO RUBIO
Member

DEB FISCHER
Member

TIM SCOTT
Member

HEIDI HEITKAMP
Member

JEANNE SHAHEEN
Member

RON JOHNSON
Member

DAVID VITTER
Member

MARK L. PRYOR
Member

United States Senate

WASHINGTON, DC 20510

AL 10-001-4273

August 9th, 2010

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We write to express our concern regarding the Environmental Protection Agency's (EPA) re-review of the herbicide atrazine, and we seek your assurance that the process you follow and the decisions you may make will be transparent and based on the best available science.

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) establishes a regular review process for pesticide registrations. This process is grounded in transparency and well-conducted scientific research; registration approvals require rigorous scientific studies conducted using EPA-specified protocols with underlying data made available to EPA scientists for review. The principles codified in FIFRA are consistent with President Obama's call to eliminate politics from decisions that should be based on science.

In October 2009, EPA began an unscheduled re-review of atrazine that appears to be inconsistent with EPA's normal FIFRA process. The re-review includes four Scientific Advisory Panels involving atrazine that span a wide range of topics, all within a twelve-month period, with two additional Scientific Advisory Panels scheduled for 2011. The number, breadth, and compressed time frame for these proceedings appear outside the norm and could call into question the process. These concerns are underscored by reports that some of the studies cited by EPA in its re-review were questioned by the February Scientific Advisory Panel and by EPA itself. Lastly, we are troubled by reports that scientific data to be reviewed by the Scientific Advisory Panels is apparently not being made available to either the panelists or interested parties with adequate time for review before the panels convene.

It is our understanding that a Scientific Advisory Panel will meet again in mid-September. With that meeting rapidly approaching, we look forward to hearing back from you regarding what actions will be taken to ensure that an open and transparent process, based on the best available science, is followed in the remaining three Scientific Advisory Panels and any resulting decisions.

Sincerely,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 2 2 2010

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of August 9, 2010, to Environmental Protection Agency (EPA) Administrator Lisa Jackson regarding the Agency's evaluation of the pesticide atrazine. I am responding on the Administrator's behalf because my office is responsible for regulating pesticides in the United States.

EPA reviews all pesticides marketed and used in the United States to ensure that they meet current scientific and regulatory standards. Consistent with U.S. pesticide laws, before allowing new or continued use, EPA must determine that a pesticide will not cause unreasonable risks to human health or the environment when used as directed on product labeling. Food use pesticides must meet a standard of "a reasonable certainty of no harm" to consumers.

Atrazine is one of the most widely used pesticides in the United States and is the subject of significant inquiry and regulatory interest. In fall 2009, EPA initiated a scientific assessment to examine new research completed since atrazine was reregistered in 2003. Given the new body of scientific information as well as the documented presence of atrazine in both drinking water sources and other bodies of water, the Agency determined it appropriate to consider the new research and to ensure that our regulatory decisions about atrazine protect public health.

Atrazine's reevaluation process has always been dynamic, not static. Over the last seven years since the atrazine reregistration decision was completed, the Agency has convened a number of Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panels (SAPs) to review new atrazine research and methods to assess its risks. Moreover, the Agency has received an extensive amount of drinking water and ambient surface water monitoring data from the registrant, as a condition of reregistration. EPA continuously reviews these data and has added into the program over 25 new community water systems that warranted closer scrutiny and removed others consistent with the reregistration requirements. In addition, the 1994 Atrazine Special Review covering cancer issues and drinking water remains open, highlighting the Agency's historical and ongoing focus on atrazine and its potential health effects from drinking water exposures.

EPA is following an open and transparent process to ensure the scientific soundness and integrity in the assessment of science issues associated with atrazine. EPA has three SAP meetings scheduled for 2010; however, the Agency's commitment to convene two of these panels pre-dated our atrazine reevaluation announcement of October 2009. The completed SAP meeting in February 2010 focused on generic issues concerning approaches for reviewing epidemiology studies and their use within risk assessments. Atrazine was used as a case study at

the February 2010 meeting. The additional, new SAP review held on April 26-29, 2010 was an evaluation of new experimental toxicology studies addressing non-cancer effects of atrazine available since the last human health risk assessment, as well as an evaluation of the drinking water monitoring data measuring atrazine levels in community water systems. As early as the 2003 Atrazine Reregistration Eligibility Decision, the Agency envisioned that it would need to revisit, at some point in the future, the scientific studies concerning potential cancer effects of atrazine and the SAP confirmed the advisability of doing so.

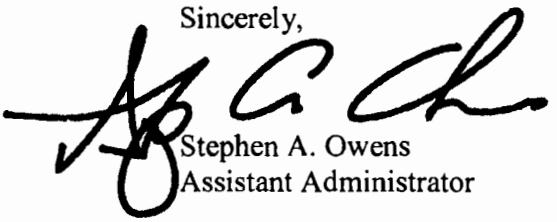
The September 14-17, 2010 SAP meeting was intended to fulfill this obligation, as well as address non-cancer effects of atrazine. The Agency had hoped that new results from the epidemiological Agricultural Health Study, evaluating the potential association between atrazine and cancer risk, would be available for consideration at the September SAP meeting; however, the results are not yet available. When these updated results become available from the National Cancer Institute, anticipated in 2011, EPA will schedule an additional SAP meeting to present the findings from this and other cancer epidemiology studies, as well as laboratory animal studies on atrazine.

With respect to the time available for the Panel or interested parties to review the information, the Agency has provided review materials approximately one month in advance of the meeting, which is typical for SAP meetings. In addition, to ensure transparency and provide the public with additional review time, the Agency has taken the extra step for the February 2010, April 2010, and September 2010 meetings on atrazine to release a list of scientific studies being included in the Agency's evaluation approximately two months in advance of the meetings.

EPA's SAP meetings are open to the public and we encourage all interested parties to participate in these meetings. The Agency's 2010 SAP Meetings Web page, http://www.epa.gov/scipoly/sap/meetings/2010/index.html, provides detailed information about each meeting and how to participate, as well as meeting minutes and transcripts when they become available.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,



Stephen A. Owens
Assistant Administrator

AL 12-001-1704

United States Senate

WASHINGTON, DC 20510

June 28, 2012

The Honorable Barack Obama
President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Obama

We are writing to urge that you issue an Executive Order exercising your authority under Clean Air Act section 112(i)(4) to grant an additional two years for all utilities to comply with the Mercury and Air Toxics Standards (MATS) regulation. If states also use their authority to grant one additional year, utilities will have the full six years the Clean Air Act allows to install new pollution control equipment on coal and oil-fired power plants.

Many utilities have said that using the Clean Air Act's full six-year compliance timeline will make implementation of the rule more reasonable, practical and cost effective. It will allow more time to order and install equipment, to give the required public notice and to apply for necessary permits. It will also minimize the possibility of disruptions in reliable electric service. The certainty of a full six years for implementation will spread out costs and minimize increases on electric rates. It will improve the ability of utilities to develop more realistic implementation schedules to ensure that an adequate supply of pollution control technology is available from manufacturers.

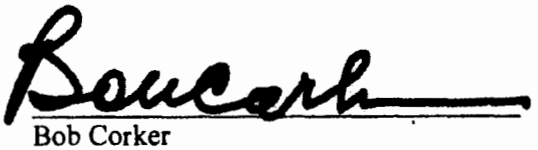
In short, exercising your presidential authority under the Clean Air Act to provide an additional two years for implementation of this rule will help citizens of our States achieve the health benefits of clean air at the lowest possible cost and with the least possibility of disruption of electric service.

Thank you for your attention to this matter.

Sincerely,

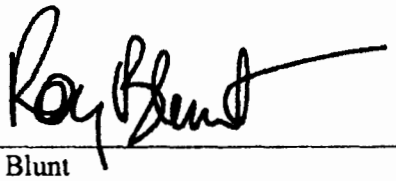
Lamar Alexander
Lamar Alexander
United States Senator

Mark Pryor
Mark Pryor
United States Senator

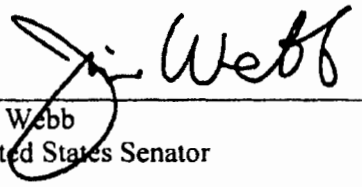


Bob Corker
United States Senator

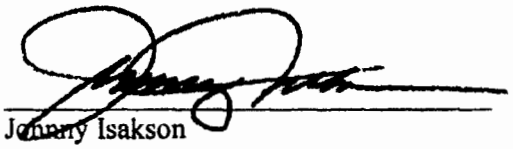
Mark Warner
United States Senator



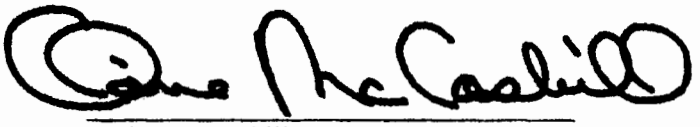
Roy Blunt
United States Senator



Jim Webb
United States Senator



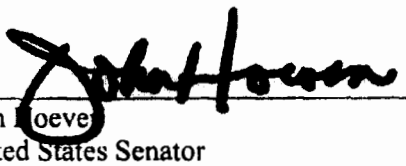
Johnny Isakson
United States Senator



Claire McCaskill
United States Senator

Richard Burr
United States Senator

Mary L. Landrieu
United States Senator



John Hoeven
United States Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AL 12-001-5665

SEP 21 2012

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Mark L. Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

The U.S. Environmental Protection Agency's (EPA) Superfund program will be adding the Cedar Chemical Corporation site, located in West Helena, Arkansas, to the National Priorities List (NPL) by rulemaking. The EPA received a governor/state concurrence letter supporting the listing of this site on the NPL. Listing on the NPL provides access to federal cleanup funding for the nation's highest priority contaminated sites.

Because the site is located within your state, I am providing information to help in answering questions you may receive from your constituency. The information includes a brief description of the site, and a general description of the NPL listing process.

If you have any questions, please contact me or your staff may contact Raquel Snyder, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586. We expect the rule to be published in the Federal Register in the next several days.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

Enclosures

United States Environmental Protection Agency

OSWER/OSRTI
Washington, DC 20460

NATIONAL PRIORITIES LIST (NPL)

Final Site

September 2012

CEDAR CHEMICAL CORPORATION | West Helena, Arkansas

Phillips County

Site Location:

The Cedar Chemical site is an abandoned chemical manufacturing facility located in Phillips County, Arkansas south of West Helena, Arkansas. The site consists of 48 acres along State Highway 242, 1 mile southwest of the intersection of U.S. Highway 49 and Highway 242. The site is in the Helena-West Helena Industrial Park and consists of six former production units, support facilities and an office on the north side of Industrial Park Road. A biological treatment system is located south of Industrial Park Road, Arkansas Highway 242 to the northwest, a Union Pacific railway to the northeast, and other industrial park properties to the southeast and southwest bound the site.

Site History:

The facility was initially operated by Helena Chemical in 1970. The facility was purchased by Eagle River Chemical and operated for approximately 18 months. From 1971 to 2002 the facility manufactured or processed a variety of agricultural and organic chemicals under various owners and operators. The last owner of record was Cedar Chemical Corporation. On March 8, 2002, Cedar Chemical Corporation filed for bankruptcy. Manufacturing and plant operations were shut down shortly thereafter. The Arkansas Department of Environmental Quality (ADEQ) assumed control of the facility on October 12, 2002, and currently acts as the caretaker of the facility.

Site Contamination/Contaminants:

During its operational life, Cedar Chemical manufactured various agricultural chemicals, including insecticides, herbicides, polymers and organic intermediates. Chemicals of concern are dieldrin, 1,2-dichoroethane, aldrin, dinoseb, chloroform, methylene chloride, toxaphene, methoxychlor, heptachlor and pentachlorophenol. Chemical processing at the production units included alkylation, amidation, carbamoylation, chlorination, distillation, esterification, acid and base hydrolysis and polymerization.

Potential Impacts on Surrounding Community/Environment:

Environmental issues associated with the facility include abandoned chemicals, buried drums, ground water contamination, surface and subsurface soil contamination and an abandoned storm water treatment system.

Response Activities (to date):

In January 2003, the EPA Region 6 conducted a Superfund removal action and removed chemicals left in tanks and containers. On March 22, 2007, ADEQ, pursuant to the authority of the Arkansas Remedial Action Trust Fund Act (RATFA), issued a Consent Administrative Order (CAO) LIS 07-027 to Tyco Safety Products-Ansul Incorporated, formerly known as Wormald US, Inc. (Ansul), Helena Chemical Company (Helena Chemical), and ExxonMobil Chemical Co., a division of ExxonMobil Corporation (ExxonMobil) regarding Cedar Chemical. The CAO directed that environmental concerns be addressed at the facility. Currently, the facility is leased to Quapaw Products LLC which is revitalizing two of the chemical production units.

Need for NPL Listing:

The Governor of Arkansas has requested Cedar Chemical Corporation be placed on the NPL using Arkansas's one state NPL site selection under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This nomination has the support of the ADEQ, local citizens, stakeholders and elected officials. There is no other viable cleanup alternative.

[The description of the site (release) is based on information available at the time the site was evaluated with the HRS. The description may change as additional information is gathered on the sources and extent of contamination.]

For more information about the hazardous substances identified in this narrative summary, including general information regarding the effects of exposure to these substances on human health, please see the Agency for Toxic Substances and Disease Registry (ATSDR) ToxFAQs. ATSDR ToxFAQs can be found on the Internet at http://www.atsdr.cdc.gov/toxfaqs/index.asp or by telephone at 1-888-42-ATSDR or 1-888-422-8737.

United States Environmental Protection Agency

OSWER/OSRTI
Site Assessment and Remedy Decisions Branch
Washington, DC 20460

NATIONAL PRIORITIES LIST (NPL)

WHAT IS THE NPL?

The National Priorities List (NPL) is a list of national priorities among the known or threatened releases of hazardous substances throughout the United States. The list serves as an information and management tool for the Superfund cleanup process as required under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances.

There are three ways a site is eligible for the NPL:

1. **Scores at least 28.50:**
   A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (HRS), which EPA published as Appendix A of the National Contingency Plan. The HRS is a mathematical formula that serves as a screening device to evaluate a site's relative threat to human health or the environment. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for inclusion on the NPL. This is the most common way a site becomes eligible for the NPL.

2. **State Pick:**
   Each state and territory may designate one top-priority site regardless of score.

3. **ATSDR Health Advisory:**
   Certain other sites may be listed regardless of their HRS score, if all of the following conditions are met:

   a. The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Department of Health and Human Services has issued a health advisory that recommends removing people from the site;
   b. EPA determines that the release poses a significant threat to public health; and
   c. EPA anticipates it will be more cost-effective to use its remedial authority than to use its emergency removal authority to respond to the site.

Sites are first proposed to the NPL in the *Federal Register*. EPA then accepts public comments for 60 days about listing the sites, responds to the comments, and places those sites on the NPL that continue to meet the requirements for listing. To submit comments, visit www.regulations.gov.

Placing a site on the NPL does not assign liability to any party or to the owner of any specific property; nor does it mean that any remedial or removal action will necessarily be taken.

For more information, please visit www.epa.gov/superfund/sites/npl/.

MARK PRYOR
ARKANSAS
COMMITTEES:
APPROPRIATIONS
COMMERCE, SCIENCE, AND TRANSPORTATION
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SMALL BUSINESS AND ENTREPRENEURSHIP
RULES AND ADMINISTRATION
SELECT COMMITTEE ON ETHICS

United States Senate

WASHINGTON, DC 20510

255 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-2353

500 PRESIDENT CLINTON AVENUE
SUITE 401
LITTLE ROCK, AR 72201
(501) 324-6336
TOLL FREE: (877) 259-9602
http://pryor.senate.gov

July 10, 2009

AL 09-001-0765

Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

I write to you on behalf of my constituent, Mayor Steve Womack of Rogers, Arkansas, who has written me concerning a ruling from your office. Enclosed please find a copy of his detailed concerns.

I would appreciate any assistance you could provide in having the proper authorities at the Environmental Protection Agency consider these concerns. If you have any questions or need any additional information, please contact Stephen Lehrman at 202-224-2353.

Thank you for your attention to this matter.

Sincerely,

Mark Pryor

Mark Pryor

Cc: Mayor Steve Womack
Rogers, Arkansas

CITY OF
ROGERS
ESTABLISHED 1881

OFFICE OF THE MAYOR

Steve Womack, Mayor Wendy Shumate, Assistant to the Mayor

March 4, 2009

The Honorable Blanche L. Lincoln
United States Senate
355 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mark Pryor
United States Senate
255 Dirksen Senate Office Building
Washington, DC 20510

The Honorable John Boozman
United States House of Representatives
1519 Longworth House Office Building
Washington, DC 20510

Dear Senators and Congressman:

I would like to bring to your attention an issue that has the potential to have severe adverse economic implications for Northwest Arkansas and the City of Rogers. You are no doubt aware of the ongoing struggle that the Northwest Arkansas communities have had seeking to accommodate the demands by Oklahoma to reduce phosphorus loadings to the watersheds of surface waters that flow into Oklahoma.

In 2002 the City of Rogers, along with the other major municipalities in Northwest Arkansas entered into a *Statement of Joint Principles and Actions* ("the Agreement", copy attached) an Agreement with Oklahoma and EPA that provided a benchmark level of phosphorus that each municipality could discharge through 2012. The Agreement provided more than just an allocation of phosphorus loading to the major municipalities in Northwest Arkansas. The major municipalities agreed to design their wastewater treatment systems to achieve a 1 mg/l phosphorus limit (at substantial cost) and Oklahoma agreed that this effort was designed to achieve compliance with the 0.037 mg/l phosphorus water quality criteria that Oklahoma had adopted ("the 0.037 criteria"). It was agreed that this limit would apply to the NACA permit, and any renewals through 2012. Oklahoma also agreed to complete, by 2012, an evaluation of the 0.037 criteria to re-evaluate the levels of phosphorus that would be appropriate in its surface waters to preserve water quality.

In reliance upon that Agreement the City of Rogers spent $25 million to build additional wastewater treatment capacity, with the design based on the agreement with Oklahoma and EPA. As a result of efforts by the City of Rogers, the phosphorus loadings from the City of Rogers have reduced. The phosphorus loadings in Osage Creek, which is the receiving stream from the City of Rogers treatment facility, have reduced as well. Similar improvements have been the experience throughout Northwest Arkansas, which is attributable to the substantial investment by municipalities and industry in phosphorus control. The University of Arkansas is near completion of a comprehensive evaluation of surface waters in Northwest Arkansas to identify the current status of water quality and evaluate the need for further reductions in phosphorus loadings.

The Northwest Arkansas Conservation Authority (NACA) is in the final stages of developing a new wastewater treatment facility to accommodate Bentonville and Tontitown. The Agreement even included an allocation for this facility. Now, at the last hour, EPA has objected to the permit ADEQ drafted for the NACA facility, and is insisting that NACA agree to a phosphorus permit limit of 0.1 mg/l, a limit that is 10 times more restrictive than the Agreement provides. EPA is insisting that this more restrictive limit be effective in 2012. EPA has stated that it expects all of the Northwest Arkansas municipalities to meet this new 0.1 mg/l limit after 2012 as well. For the City of Rogers, this would require an additional $15 million in capital costs and $1 million in annual operation and maintenance.

ADEQ believes that, for a number of reasons, it is premature to establish a post 2012 permit limit for Northwest Arkansas municipal treatment facilities. Oklahoma's evaluation of the 0.037 mg/l criteria is not complete. Equally importantly, the ongoing and nearly complete evaluation of the surface waters by the University of Arkansas needs to be completed before any determination can be made regarding the appropriate post 2012 phosphorus loadings. Accordingly, ADEQ has proposed to issue a permit to NACA that will expire in 2012, so that when the permit is renewed in 2012 the phosphorus loadings can be established with sound, up to date, water quality information. Attached to this letter is ADEQ's letter to EPA responding to EPA's objection and explaining why a permit for NACA that expires in 2012 is the appropriate resolution of EPA's objection.

I am concerned that EPA may refuse to accept ADEQ's proposal, and insist on a permit for NACA that includes a post 2012 permit limit of 0.1 mg/l. Such a permit limit would be inconsistent with the Agreement, premature, and unjustified by any objective scientific information. Should EPA take this unprecedented step, it will, by design, start a domino effect, and force the same resolution upon the City of Rogers and other Northwest Arkansas municipalities.

I urge you to investigate this issue, and assist the Northwest Arkansas communities in convincing EPA to wait, allow ADEQ to issue a permit that expires in 2012, and thereby allow science to resolve this issue. The necessary science is being collected, and will be available in plenty of time to determine what the appropriate phosphorus loadings should be for the post 2012 time period. Thank you for your support on this most important issue. The ratepayers in the City of Rogers should not be subjected to substantial additional sewer charges, when the current circumstances do not warrant that path forward.

Please contact me if you have any questions about this matter. Thank you for your continued support of the Northwest Arkansas communities and our efforts to provide effective and affordable wastewater treatment.

Sincerely,

Steve Womack
Mayor

Cc: Rogers City Council Members

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

AUG 17 2009

The Honorable Mark Pryor
United States Senate
Washington, DC 20510

Dear Senator Pryor:

Thank you for your letter of July 10, 2009, to Environmental Protection Agency (EPA) Administrator Lisa Jackson on behalf of your constituent, the Honorable Steve Womack, Mayor of Rogers, Arkansas. In a letter to you dated March 4, 2009, Mayor Womack expressed concerns regarding EPA's proposed actions on the Arkansas Department of Environmental Quality's (ADEQ) draft National Pollutant Discharge Elimination System (NPDES) permit for the Northwest Arkansas Conservation Authority (NACA). Your letter was referred to me for reply since Arkansas is within the jurisdiction of EPA Region 6.

ADEQ is authorized to issue NPDES permits for discharges within the State of Arkansas, and EPA retains oversight. EPA reviewed NACA's draft permit to determine whether it complied with Clean Water Act (CWA) requirements, including protecting water quality in Osage Creek. Presently, Osage Creek, part of the Illinois River watershed of northwest Arkansas, is listed as impaired by phosphorus. As required under 40 CFR § 122.4(d), which states that no NPDES permit may be issued which is not protective of water quality standards of an affected downstream state, EPA also reviewed the draft permit for compliance with Oklahoma water quality standards. The Illinois River is also listed as impaired by phosphorus in Oklahoma. Because the State of Oklahoma designated the Illinois River a "scenic river," a water quality standard of 0.037 mg/l for phosphorus currently applies at the state line.

On January 16, 2009, EPA objected to NACA's draft permit because it contained a total phosphorus limit of 1.0 mg/l which would have allowed excessive phosphorus loadings within Osage Creek and would not have been protective of the Oklahoma water quality standard for the Illinois River at the Oklahoma State line. EPA's bases for objection were set out in our January 16 and April 16, 2009, letters to ADEQ, and in our February 26, 2009, letter to Congressman John Boozman (copies enclosed). In response to EPA's objection, ADEQ revised the draft permit to include requirements for upstream and downstream monitoring of total phosphorus and an enforceable effluent limit of 0.1 mg/l for total phosphorus, effective July 1, 2012. EPA determined NACA's compliance with this effluent limit will be protective of applicable water quality standards in both Arkansas and Oklahoma and subsequently withdrew its objection to the draft permit on April 16, 2009. ADEQ issued public notice of the revised draft permit on April 17, 2009, and is now responding to comments from the 30 day public comment period.

Mayor Womack also raised concerns regarding interpretation of the Joint Statement of Principles; these concerns are addressed in the enclosed letters. In addition, EPA acknowledges Mayor Womack's concerns regarding the potential impacts of EPA's actions on the City of Rogers. EPA has not yet determined what might be an appropriate phosphorus limit for the City of Rogers' wastewater treatment permit. However, we are presently developing a water quality model for the Illinois River watershed, and the completed model will provide valuable information for setting effluent limits in other future permits and establishing other controls on nonpoint sources of nutrients in the watershed.

I hope this information has been helpful for you and your constituents. If you have any questions, please call me at (214) 665-2100, or your staff may contact LaWanda Thomas of my staff, at (214) 665-7466.

Sincerely yours,

Lawrence E. Starfield
Acting Regional Administrator

Enclosures (3)

cc: Teresa Marks
Director, ADEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JAN 16 2009

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7003 0500 0003 0875 6136)

Mr. Steven L. Drown
Chief, Water Division
Arkansas Department of Environmental Quality
P. O. Box 8913
Little Rock, AR 72219-8913

Re: Specific Objection to Preliminary Draft Permit
Northwest Arkansas Conservation Authority (NACA)
NPDES Permit No. AR0050024

Dear Mr. Drown:

We have received the additional information you provided December 3, 2008, along with the revised fact sheet and draft permit you developed in response to our November 6, 2008, interim objection to the subject permit. In our interim objection, we stated that the information provided was inadequate to determine whether the draft permit meets the guidelines and requirements of the Clean Water Act and requested additional information. (Please see "EPA's Interim Objection to Preliminary Draft Permit," dated November 6, 2008, which is attached hereto and incorporated herein by reference).

Because EPA believes the issues raised in our Interim Objection remain unresolved, we specifically object to issuance of this permit unless the conditions set out below are satisfied. In particular, EPA believes the effluent limit of 1.0 mg/l for total phosphorus (TP) included in the draft permit does not satisfy the requirements of 40 C.F.R §§ 122.44(d) and 122.4(d) and (i) in that the limit is not stringent enough to meet water quality standards, including State narrative criteria for water quality or applicable water quality standards of all affected states, or to ensure that the discharge will not cause or contribute to a violation of water quality standards for an impaired water body.

Based on available information, EPA considers an effluent limit for TP of 0.1 mg/l to be appropriate for ensuring compliance with applicable water quality standards. However, EPA will withdraw its objection to the permit if the following conditions are satisfied:

1. The term of the permit will be for 5 years. An effluent limit of 1 mg/l total phosphorous (TP) will apply until June 15, 2012. Thereafter, the effluent limit will be set at 0.1 mg/l, unless subsequently reopened and modified based on new data; and,

2. The permit will include appropriate upstream and downstream monitoring requirements for both TP and for Dissolved Oxygen (DO).

In reaching our decision to withdraw this objection if the above conditions are met, we gave consideration to multiple factors. First, we believe there is a strong argument that the discharge from this facility was contemplated, although perhaps not in its current form, in the Statement of Joint Principles and Actions signed by Arkansas and Oklahoma in 2003, in which the States of Arkansas and Oklahoma agreed to include a 1.0 mg/l limit for phosphorous in the permits of specified facilities until the year 2012 as an initial step to protect water quality in the Illinois River Basin. We understand that the proposed 3.6 MGD facility treats discharges from Hifill and Tontitown, which were previously described in the former Osage Basin permit proposal (0.5MGD); and, the additional 3.1 MGD constitutes additional treatment capacity for the City of Bentonville, addressed in the Statement of Joint Principles and Actions as "the New Bentonville Plant (date unknown)". As noted in the Statement of Joint Principles and Actions, as of 2012 all dischargers to the Illinois River watershed, including NACA, will be required to meet all applicable water quality standards, including narrative standards and the standards of adjacent downstream states.

In addition, of particular relevance is the ongoing water quality study of Osage Creek. This study will provide additional information to establish an in-stream TP target in order to develop a Total Maximum Daily Load (TMDL) for Osage Creek, which EPA considers impaired. If at the conclusion of the study, and in consideration of all other available information, EPA determines, after discussion with ADEQ, that its assessment of impairment continues to be appropriate, or the results are ambiguous, EPA will continue to rely on its determination that Osage Creek is impaired. Alternatively, if all available information indicates Osage Creek is not impaired for TP, then no TMDL for Osage Creek in Arkansas will be needed; however, the study results will still need to be used to establish targets for watershed based planning, including meeting Oklahoma's water quality standards for its scenic rivers. Watershed-based planning for this fast growing area of the State is critical in order to accommodate growth and protect and/or restore water quality throughout the Illinois River and adjacent watersheds, which are already classified by the State as nutrient surplus areas.

In consideration of the foregoing, EPA will withdraw its objection to issuance of this permit while the Osage Creek water quality study is ongoing, under the stipulations described earlier. However, we note that our decision is conditioned upon the completion of this study by the December 2009, deadline committed to by ADEQ. EPA strongly believes that the NACA facility should be required to have TP limits no greater than 0.1 mg/l.

We base this determination on EPA's recommended water quality criteria, as well as, other technical guidance documents. In 2000, EPA published a document entitled *Ambient Water Quality Criteria Recommendations: Information Supporting the Development of State and Tribal Nutrient Criteria, Rivers and Streams in Nutrient Ecoregion XI.* This national document recommended a total phosphorus criterion for streams and rivers, in this aggregate ecoregion, of

0.1 mg/l. EPA national compendium of recommendations for criteria ("1986 Gold Book") states the level of total phosphorus in streams should not exceed 0.1 mg/l to prevent plant nuisance growth. This value coincides with ADEQ's former guideline value for total phosphorus. Please note that a number of facilities in a number of States across the country including Colorado, Virginia, Oregon, New York, Massachusetts, New Hampshire, New Mexico have permit requirements at this level. [1] Therefore, we require a 0.1 mg/l effluent limit to become effective in 2012 in the event a different limit is not supported.

EPA believes that it is in ADEQ's and NACA's best interest to design the treatment plant and future expansions taking into consideration: (1) the phosphorous stream impairment in Osage Creek and in the Illinois River on the Oklahoma side of the State line; (2) the possibility that a phosphorous TMDL could be issued for this watershed in the near future; (3) the downstream state criterion for phosphorus; and, (4) the existence of treatment technologies that can reduce phosphorous levels substantially below 1 mg/l. We also strongly encourage the State to engage in a watershed planning effort to accommodate growth, as well as the possibility of future TMDLs, in this nutrient surplus region.

Our agencies share an interest in promoting the use of Regional wastewater treatment facilities over smaller plants serving individual communities, and we understand the proposed discharge represents a practical pathway towards improving water quality in the Illinois River watershed. However, some of the reasons for regionalization include incorporation of better treatment technologies for pollutants of concern, the economies of scale achievable by larger plants, and the better operation/maintenance of regional plants as compared to smaller plants. Permits for dischargers to the Illinois River and its tributaries issued or re-issued after 2012 will have to reflect the applicable downstream criteria and designated uses in the state of Oklahoma, in addition to Arkansas' criteria and standards. The cumulative impact of the numerous plants in the area will need to be considered and analyzed in order for this to be demonstrated. We strongly encourage the State to engage in a waste load allocation process. Information from your in-stream study will be essential in helping set targets that can be used in a waste load allocation.

Thank you for providing us additional information and a copy of the revised draft permit and fact sheet for review. If you have any questions or concerns regarding our comments, please call me at (214) 665-7101 or have your staff contact Claudia Hosch at (214) 665-7170.

Sincerely yours,

Miguel I. Flores
Director
Water Quality Protection Division

[1] See *Advanced Wastewater Treatment to Achieve Low Concentration of Phosphorus, EPA 910-R-07-002* and *Municipal Nutrient Removal Technologies, EPA 832-R-08-006* for additional information on nutrient removal and Facilities that are achieving low P limits.

cc: Teresa Marks, Director, ADEQ
Steve Martin, Deputy Director, ADEQ
Marysia Jastrzebski, P.E., ADEQ
John Sampier, Executive Director, NACA
J.D. Strong, Secretary of the Environment, State of Oklahoma

United States Senate

WASHINGTON, DC 20510

AL 13-000-8739

August 1, 2013

The Honorable Barack H. Obama
President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Obama:

Nearly eight years ago, Congress enacted the Energy Policy Act of 2005 (EPAct) which established the first Renewable Fuel Standard (RFS). This program required refiners and importers of gasoline and diesel to use 7.5 billion gallons of biofuels by 2012. In 2007, Congress significantly expanded this law in the Energy Independence and Security Act of 2007, which increased the mandate to 36 billion gallons of biofuels by 2022.

Unfortunately, the premise and structure of the RFS were based on many assumptions that no longer reflect the current market conditions. At the time the RFS was enacted, the U.S. Energy Information Administration (EIA) projected rising gasoline demand each year in the coming decades. The EIA also forecasted a continued rise in crude oil imports. A combination of the recession and the 2011 fuel economy standards has lowered the demand for gasoline in the U.S. In fact, the 2007 EIA Annual Energy Outlook (AEO) projected a 12 percent higher demand for gasoline in 2013 than is actually occurring. The 2013 AEO (early release) projects 2022 gasoline demand will be 28 percent lower than in the 2007 projection. Likewise, the level of crude oil imports has decreased to around 40 percent from a high of 60 percent in 2005.

The combination of rising ethanol mandates and declining gasoline consumption has exacerbated the onset of the E10 blendwall – the point at which the gasoline supply is saturated with the maximum amount of ethanol that current vehicles, engines, and infrastructure can safely accommodate. This year, the U.S. will consume approximately 133 billion gallons of gasoline and 0.13 billion gallons of E85. At 10 percent of gasoline demand, the blendwall occurs at 13.3 billion gallons even as the conventional biofuel (e.g. corn ethanol) mandate rises from 13.8 billion gallons in 2013 to 14.4 billion in 2014. Clearly, the market is anticipating the onset of the blendwall, as evidenced by the escalating price of ethanol renewable identification numbers (RINs), which reached a record high of $1.46 the week of July 15 after averaging below $0.04 in previous years.

The quicker-than-anticipated onset of the blendwall—coupled with stagnant demand for E85 and ongoing legal, market, and technical challenges with E15—now threatens to raise fuel prices and damage the engines of our constituents. In recent testimony before Congress, the Environmental Protection Agency (EPA) noted with respect to 2014 that the challenge becomes much greater as the statutory volumes increase substantially, and asked the public for comments and advice on whether to waive the requirements.

Indeed, the EPA Administrator has the authority to waive the 2014 volumes below 10 percent and to ensure additional adverse impacts do not occur. We respectively ask that you direct your Administration to take these steps while Congress continues to examine options for a long term policy solution.

Sincerely,

David Vitter

Mark Pryor

James Inhofe

Norm Coleman
Mark Pryor
United States Senators

AL 05-001-6327

October 24, 2005

The Honorable Stephen Johnson
Administrator of the
Environmental Protection Agency
4001 M Street, SW
Washington, DC 20460-0001

Dear Mr. and Mrs. Johnson:

On behalf of the Congressional Committee, we have the pleasure of inviting you to join us for the 54th National Prayer Breakfast on Thursday, February 2, 2006, at the Hilton Washington in Washington, D.C.

Annually, Members of Congress, the President and other national leaders have gathered to reaffirm our trust in God and recognize the reconciling power of prayer. Friends and leaders from throughout the United States and more than 160 countries come in the spirit of friendship to set aside their differences, seeking to build and strengthen relationships through our love for God and concern for one another. Although we face tremendous challenges each day, our hearts can be strengthened both individually and collectively, as we seek God's wisdom and guidance together.

Your prompt response is essential and greatly appreciated. Please refer to the enclosed RSVP card for deadline information. We sincerely hope you will be able to participate in this special time.

Sincerely,

Norm Coleman Mark Pryor

Norm Coleman Mark Pryor

NPB 4

PHONE (703) 237-3630 FAX (703) 237-1807
E-MAIL NPBCO@NPBCO.ORG

MARK PRYOR
ARKANSAS
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COMMERCE, SCIENCE, AND TRANSPORTATION
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SMALL BUSINESS AND ENTREPRENEURSHIP
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United States Senate

WASHINGTON, DC 20510

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http://pryor.senate.gov

July 13, 2009

AL 09-001-0764

Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

I write to you on behalf of my constituent, Mayor Doug Sprouse of Springdale, Arkansas, who has written me concerning a ruling from your office. Enclosed please find a copy of his detailed concerns.

I would appreciate any assistance you could provide in having the proper authorities at the Environmental Protection Agency consider these concerns. If you have any questions or need any additional information, please contact Stephen Lehrman at 202-224-2353.

Thank you for your attention to this matter.

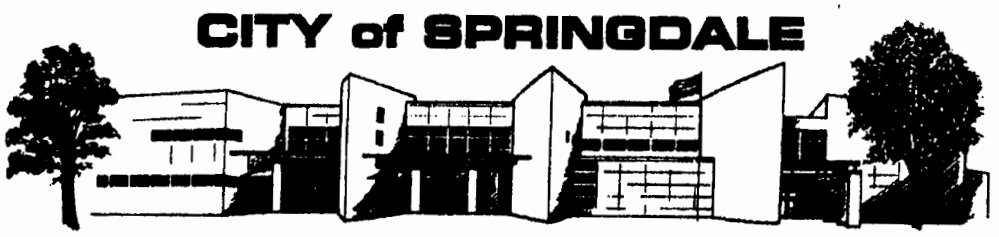
Cc: Mayor Doug Sprouse

Springdale, Arkansas

Sincerely,

Mark Pryor

Mark Pryor



OFFICE OF THE MAYOR
DOUG SPROUSE

April 6, 2009

Via Telefax and First Class Mail **(202) 228-0908**

Senator Mark Pryor
255 Dirksen Senate Office Building
Washington, DC 20510

Re: Northwest Arkansas Conservation Authority, Permit No. AR0050024 (Proposed)

Dear Senator Pryor:

We are writing to express concern about the position EPA Region VI appears to be taking with respect to the water discharge permit for the Northwest Arkansas Conservation Authority.

As you know, NACA is planning to build a new wastewater treatment plant that will discharge into Osage Creek, a tributary of the Illinois River. Last year the Arkansas Department of Environmental Quality sent a proposed permit for NACA to EPA Region VI for comment. The permit proposed by ADEQ included a 1.0 part per million effluent limitation for phosphorus, the same limitation that is currently applicable to the other major wastewater facilities in Northwest Arkansas. By letter dated January 16, 2009 EPA objected to the permit proposed by ADEQ. Specifically, EPA Region VI stated that the effluent limitation for phosphorus in the NACA permit should be 1ppm for the first three years and 0.1 ppm for the last two years of the permit.

A 0.1 ppm effluent limitation for phosphorus is extremely low and will result in extraordinary increases in construction and operating costs. Recent correspondence from EPA Region VI to Congressman Boozman's office has indicated that EPA Region VI plans to require the same 0.1 ppm phosphorus limit in the renewal permits for the other major wastewater facilities in Arkansas as they come up for renewal.

The position taken by EPA Region VI thus far is extremely troublesome for a variety of reasons. First, EPA's position violates the Statement of Joint Principles and Actions that Arkansas and Oklahoma entered into several years ago to address the issue of phosphorus in the Illinois River. Specifically, the Statement of Joint Principles provides that all permits for the larger wastewater treatment facilities issued through calendar year 2011 will include a 1.0 ppm effluent limitation for phosphorus. Although EPA is not a party to the Statement of Joint Principles, it was the mediator that facilitated the agreement.

Second, EPA has indicated in correspondence to Congressman Boozman that it believes the 0.1 ppm effluent limitation for phosphorus is necessary to meet the .037 numeric water quality standard for phosphorus that Oklahoma has adopted for the Illinois River. This water quality standard, however, is not fully effective until 2012. In the Statement of Joint Principles, Oklahoma specifically agreed that an effluent limitation of 1.0 ppm for larger Arkansas municipal wastewater treatment facilities was acceptable and appropriate for all permits issued through the end of calendar year 2011. Oklahoma also specifically agreed to reconsider the propriety of the .037 ppm standard.

Third, EPA's letter to Congressman Boozman indicates that the agency believes that a 0.1 ppm effluent limitation for phosphorus is necessary because the narrative water quality standards for nutrients on the Arkansas portions of the Illinois River and its tributaries are not currently being met. We strenuously disagree with this notion. To begin with, we believe that the Arkansas portions of the Illinois River and its tributaries currently meet all applicable water quality standards, and we have funded additional water quality testing to confirm this point. We are not aware of any evidence that would justify EPA's suggestion that the water quality standards are not currently being met. Moreover, it is impossible for EPA to suggest that it would know now what the water quality will be in 2012.

Stated simply, we believe that EPA's position violates the Statement of Joint Principles and is inconsistent with current and emerging new data regarding water quality. We urge you to contact Lawrence Starfield, the acting Regional Administrator of EPA Region VI, so that you can be fully informed of the current situation. In particular, we urge you to inquire of EPA Region VI how its position can be squared with the concerns that have been expressed in this letter, in related letters from other communities, and ADEQ's correspondence with EPA.

In closing we note that ADEQ recently proposed to EPA a compromise solution under which NACA would be issued a permit for only three years, rather than the normal five year cycle, with a 1.0 ppm effluent limitation for phosphorus for the three year term. We believe that this is a very reasonable compromise. We hope that you will urge EPA to give serious consideration to ADEQ's proposal.

Needless to say, if you or anyone on your staff wishes to have any additional information, please do not hesitate to contact the Springdale Water Utilities Manager, Rene Langston, or its environmental counsel, Allan Gates.

Very truly yours,

Doug Sprouse, Mayor
City of Springdale, Arkansas

Chris Weiser, Chairman
Springdale Water & Sewer Commission

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

AUG 17 2009

The Honorable Mark Pryor
United States Senate
Washington, DC 20510

Dear Senator Pryor:

Thank you for your letter of July 10, 2009, to Environmental Protection Agency (EPA) Administrator Lisa Jackson on behalf of your constituent, the Honorable Doug Sprouse, Mayor of Springdale, Arkansas. In a letter to you dated April 6, 2009, Mayor Sprouse expressed concerns regarding EPA's proposed actions on the Arkansas Department of Environmental Quality's (ADEQ) draft National Pollutant Discharge Elimination System (NPDES) permit for the Northwest Arkansas Conservation Authority (NACA). Your letter was referred to me for reply since Arkansas is within the jurisdiction of EPA Region 6.

ADEQ is authorized to issue NPDES permits for discharges within the State of Arkansas, and EPA retains oversight. EPA reviewed NACA's draft permit to determine whether it complied with Clean Water Act (CWA) requirements, including protecting water quality in Osage Creek. Presently, Osage Creek, part of the Illinois River watershed of northwest Arkansas, is listed as impaired by phosphorus. As required under 40 CFR § 122.4(d), which states that no NPDES permit may be issued which is not protective of water quality standards of an affected downstream state, EPA also reviewed the draft permit for compliance with Oklahoma water quality standards. The Illinois River is also listed as impaired by phosphorus in Oklahoma. Because the State of Oklahoma designated the Illinois River a "scenic river," a water quality standard of 0.037 mg/l for phosphorus currently applies at the state line.

On January 16, 2009, EPA objected to NACA's draft permit because it contained a total phosphorus limit of 1.0 mg/l which would have allowed excessive phosphorus loadings within Osage Creek and would not have been protective of the Oklahoma water quality standard for the Illinois River at the Oklahoma State line. EPA's bases for objection were set out in our January 16 and April 16, 2009, letters to ADEQ, and in our February 26, 2009, letter to Congressman John Boozman (copies enclosed). In response to EPA's objection, ADEQ revised the draft permit to include requirements for upstream and downstream monitoring of total phosphorus and an enforceable effluent limit of 0.1 mg/l for total phosphorus, effective July 1, 2012. EPA determined NACA's compliance with this effluent limit will be protective of applicable water quality standards in both Arkansas and Oklahoma and subsequently withdrew its objection to the draft permit on April 16, 2009. ADEQ issued public notice of the revised draft permit on April 17, 2009, and is now responding to comments from the 30 day public comment period.

Mayor Sprouse also raised concerns regarding interpretation of the Joint Statement of Principles; these are addressed in the enclosed letters. In addition, EPA acknowledges Mayor Sprouse's concerns regarding the potential impacts of EPA's actions on the City of Springdale. EPA has not yet determined what might be an appropriate phosphorus limit for the City of Springdale's wastewater treatment permit. However, we are presently developing a water quality model for the Illinois River watershed, and the completed model will provide valuable information for setting effluent limits in permits and establishing other controls on nonpoint sources of nutrients in the watershed.

I hope this information has been helpful for you and your constituents. If you have any questions, please call me at (214) 665-2100, or your staff may contact LaWanda Thomas of my staff, at (214) 665-7466.

Sincerely yours,

Lawrence E. Starfield
Acting Regional Administrator

Enclosures (3)

cc: Teresa Marks
Director, ADEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JAN 16 2009

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7003 0500 0003 0875 6136)

Mr. Steven L. Drown
Chief, Water Division
Arkansas Department of Environmental Quality
P. O. Box 8913
Little Rock, AR 72219-8913

Re: Specific Objection to Preliminary Draft Permit
Northwest Arkansas Conservation Authority (NACA)
NPDES Permit No. AR0050024

Dear Mr. Drown:

We have received the additional information you provided December 3, 2008, along with the revised fact sheet and draft permit you developed in response to our November 6, 2008, interim objection to the subject permit. In our interim objection, we stated that the information provided was inadequate to determine whether the draft permit meets the guidelines and requirements of the Clean Water Act and requested additional information. (Please see "EPA's Interim Objection to Preliminary Draft Permit," dated November 6, 2008, which is attached hereto and incorporated herein by reference).

Because EPA believes the issues raised in our Interim Objection remain unresolved, we specifically object to issuance of this permit unless the conditions set out below are satisfied. In particular, EPA believes the effluent limit of 1.0 mg/l for total phosphorus (TP) included in the draft permit does not satisfy the requirements of 40 C.F.R §§ 122.44(d) and 122.4(d) and (i) in that the limit is not stringent enough to meet water quality standards, including State narrative criteria for water quality or applicable water quality standards of all affected states, or to ensure that the discharge will not cause or contribute to a violation of water quality standards for an impaired water body.

Based on available information, EPA considers an effluent limit for TP of 0.1 mg/l to be appropriate for ensuring compliance with applicable water quality standards. However, EPA will withdraw its objection to the permit if the following conditions are satisfied:

1. The term of the permit will be for 5 years. An effluent limit of 1 mg/l total phosphorous (TP) will apply until June 15, 2012. Thereafter, the effluent limit will be set at 0.1 mg/l, unless subsequently reopened and modified based on new data; and,

2. The permit will include appropriate upstream and downstream monitoring requirements for both TP and for Dissolved Oxygen (DO).

In reaching our decision to withdraw this objection if the above conditions are met, we gave consideration to multiple factors. First, we believe there is a strong argument that the discharge from this facility was contemplated, although perhaps not in its current form, in the Statement of Joint Principles and Actions signed by Arkansas and Oklahoma in 2003, in which the States of Arkansas and Oklahoma agreed to include a 1.0 mg/l limit for phosphorous in the permits of specified facilities until the year 2012 as an initial step to protect water quality in the Illinois River Basin. We understand that the proposed 3.6 MGD facility treats discharges from Hifill and Tontitown, which were previously described in the former Osage Basin permit proposal (0.5MGD); and, the additional 3.1 MGD constitutes additional treatment capacity for the City of Bentonville, addressed in the Statement of Joint Principles and Actions as "the New Bentonville Plant (date unknown)". As noted in the Statement of Joint Principles and Actions, as of 2012 all dischargers to the Illinois River watershed, including NACA, will be required to meet all applicable water quality standards, including narrative standards and the standards of adjacent downstream states.

In addition, of particular relevance is the ongoing water quality study of Osage Creek. This study will provide additional information to establish an in-stream TP target in order to develop a Total Maximum Daily Load (TMDL) for Osage Creek, which EPA considers impaired. If at the conclusion of the study, and in consideration of all other available information, EPA determines, after discussion with ADEQ, that its assessment of impairment continues to be appropriate, or the results are ambiguous, EPA will continue to rely on its determination that Osage Creek is impaired. Alternatively, if all available information indicates Osage Creek is not impaired for TP, then no TMDL for Osage Creek in Arkansas will be needed; however, the study results will still need to be used to establish targets for watershed based planning, including meeting Oklahoma's water quality standards for its scenic rivers. Watershed-based planning for this fast growing area of the State is critical in order to accommodate growth and protect and/or restore water quality throughout the Illinois River and adjacent watersheds, which are already classified by the State as nutrient surplus areas.

In consideration of the foregoing, EPA will withdraw its objection to issuance of this permit while the Osage Creek water quality study is ongoing, under the stipulations described earlier. However, we note that our decision is conditioned upon the completion of this study by the December 2009, deadline committed to by ADEQ. EPA strongly believes that the NACA facility should be required to have TP limits no greater than 0.1 mg/l.

We base this determination on EPA's recommended water quality criteria, as well as, other technical guidance documents. In 2000, EPA published a document entitled *Ambient Water Quality Criteria Recommendations: Information Supporting the Development of State and Tribal Nutrient Criteria, Rivers and Streams in Nutrient Ecoregion XI.* This national document recommended a total phosphorus criterion for streams and rivers, in this aggregate ecoregion, of

0.1 mg/l. EPA national compendium of recommendations for criteria ("1986 Gold Book") states the level of total phosphorus in streams should not exceed 0.1 mg/l to prevent plant nuisance growth. This value coincides with ADEQ's former guideline value for total phosphorus. Please note that a number of facilities in a number of States across the country including Colorado, Virginia, Oregon, New York, Massachusetts, New Hampshire, New Mexico have permit requirements at this level. [1] Therefore, we require a 0.1 mg/l effluent limit to become effective in 2012 in the event a different limit is not supported.

EPA believes that it is in ADEQ's and NACA's best interest to design the treatment plant and future expansions taking into consideration: (1) the phosphorous stream impairment in Osage Creek and in the Illinois River on the Oklahoma side of the State line; (2) the possibility that a phosphorous TMDL could be issued for this watershed in the near future; (3) the downstream state criterion for phosphorus; and, (4) the existence of treatment technologies that can reduce phosphorous levels substantially below 1 mg/l. We also strongly encourage the State to engage in a watershed planning effort to accommodate growth, as well as the possibility of future TMDLs, in this nutrient surplus region.

Our agencies share an interest in promoting the use of Regional wastewater treatment facilities over smaller plants serving individual communities, and we understand the proposed discharge represents a practical pathway towards improving water quality in the Illinois River watershed. However, some of the reasons for regionalization include incorporation of better treatment technologies for pollutants of concern, the economies of scale achievable by larger plants, and the better operation/maintenance of regional plants as compared to smaller plants. Permits for dischargers to the Illinois River and its tributaries issued or re-issued after 2012 will have to reflect the applicable downstream criteria and designated uses in the state of Oklahoma, in addition to Arkansas' criteria and standards. The cumulative impact of the numerous plants in the area will need to be considered and analyzed in order for this to be demonstrated. We strongly encourage the State to engage in a waste load allocation process. Information from your in-stream study will be essential in helping set targets that can be used in a waste load allocation.

Thank you for providing us additional information and a copy of the revised draft permit and fact sheet for review. If you have any questions or concerns regarding our comments, please call me at (214) 665-7101 or have your staff contact Claudia Hosch at (214) 665-7170.

Sincerely yours,

Miguel I. Flores
Director
Water Quality Protection Division

[1] See *Advanced Wastewater Treatment to Achieve Low Concentration of Phosphorus, EPA 910-R-07-002* and *Municipal Nutrient Removal Technologies, EPA 832-R-08-006* for additional information on nutrient removal and Facilities that are achieving low P limits.

cc: Teresa Marks, Director, ADEQ
Steve Martin, Deputy Director, ADEQ
Marysia Jastrzebski, P.E., ADEQ
John Sampier, Executive Director, NACA
J.D. Strong, Secretary of the Environment, State of Oklahoma

United States Senate

WASHINGTON, DC 20510

AL 11-000-8056

May 5, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator Jackson:

As you are aware, Congress passed H.R. 1473, the Department of Defense and Full-Year Continuing Appropriations Act of 2011, last month. Unfortunately, this legislation did not include specific language to provide funding for technical assistance and training for rural water utilities. This funding has been critical in helping rural communities comply with national drinking water standards since 1976. In dealing with complex regulations, small communities often need assistance to improve and protect their water resources. In implementing national priorities and standards, we must also address the unique needs of these communities.

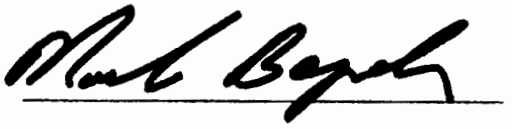
Secondly, it is important to place greater weight on initiatives that are effective and produce tangible results when making funding decisions. The technical assistance made possible by past funding of this program has enabled rural water utilities to provide quality drinking water in spite of their limited economies of scale. This assistance has and will continue to help rural water systems from Louisiana to Kansas to Alaska, and every other state in the nation, comply with national laws and regulations.

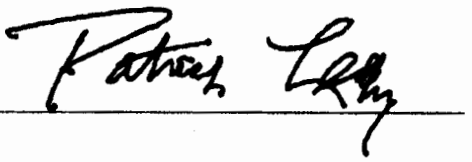
We respectfully request that you allocate $15 million in the Environmental Protection Agency Programs and Management account to carry out the Safe Drinking Water Act's technical assistance authorization provision (PL 104-182, 42 USC § 300j-1). If it is not possible to fund this competitive grant program, please let us know how the Environmental Protection Agency intends to ensure our nation's rural communities have the resources necessary to deliver safe drinking water. Thank you in advance for your consideration of this critical issue.

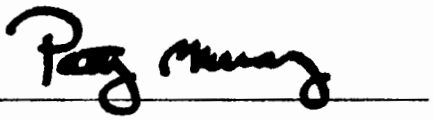
Sincerely,

Mary L. Landrieu

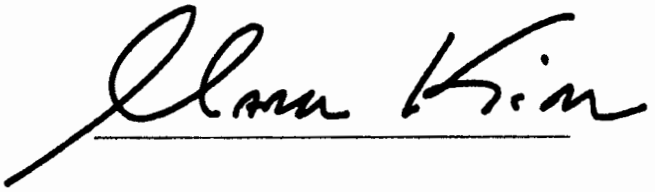
Jerry Moran

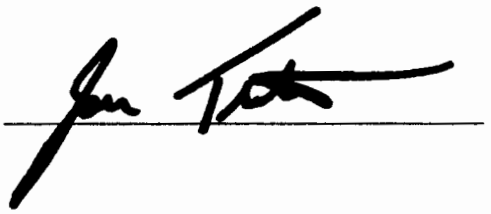


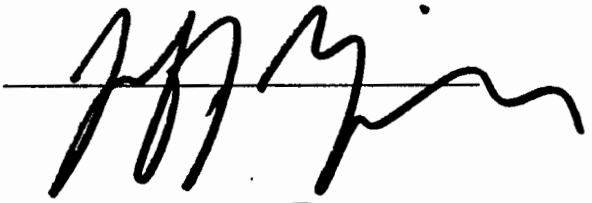


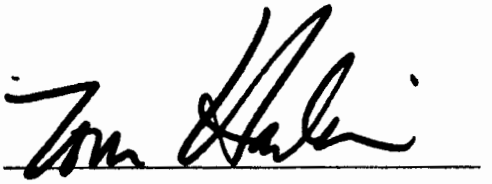


Kirsten E. Gillibrand









MARK ROYER

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 2 7 2011

AL 11-001-0309

THE ADMINISTRATOR

The Honorable Mark L. Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

I appreciate the opportunity to meet with you on June 16, 2011, regarding the Environmental Protection Agency's (EPA) Non-Hazardous Secondary Materials (NHSM) rule, the Boiler Maximum Achievable Control Technology (MACT) rule, and the Commercial and Industrial Solid Waste Incinerators (CISWI) rule. Thank you for your constructive engagement on these priority issues. We are currently exploring various pathways under existing authority to address your concerns.

As you know, the Boiler MACT and CISWI standards are currently subject to an administrative stay. Today, as part of a filing with the United States Court of Appeals for the District of Columbia Circuit, the EPA announced the intended schedule for reconsideration of the boilers and CISWI rules. To ensure that the agency's standards are based on the best available data and that the public is given ample opportunity to provide additional input and information, the agency intends to propose the reconsideration rule by the end of October 2011 and issue a final rule by the end of April 2012. This is the best approach to establish technically and legally sound standards that will bring significant health benefits to the American public.

We believe that this stay and the reconsideration period will provide ample time to administratively address the issues raised by various stakeholders on these corresponding rules.

The NHSM rule, which we discussed in our meeting, aims to ensure that the burning of solid waste is subject to appropriate emission controls required under the Clean Air Act and that exposure to harmful pollutants is minimized. We understand that biomass derivatives have long been used for energy purposes in the wood products industry and we believe our rule allows such use to continue without being subject to the CISWI standards, provided that criteria, referred to as "legitimacy" criteria, are met.

Since promulgation of our rule, questions have arisen about how these criteria will be applied and our goal has been to ensure that the flexibility provided by the rule is in fact realized. To that end, we have held several meetings with industry representatives to discuss and understand their concerns and to review newly available data. In addition, on June 21, 2011, my Assistant Administrator for Solid Waste and Emergency Response, Mathy Stanislaus, met with representatives of several industries that use biomass derivatives and other non-hazardous

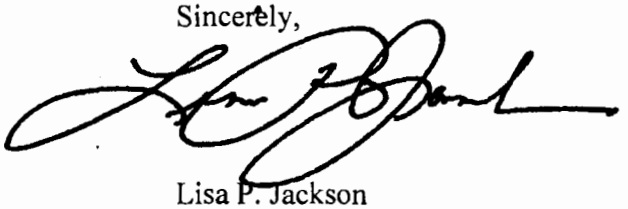
secondary materials as fuel to ensure that they understand the significant flexibility already afforded by the rule, and to discuss the EPA's concepts for further clarifying that flexibility.

As part of that discussion, Mr. Stanislaus explained that one of the options that EPA is considering is issuing clarifying guidance regarding the Agency's legitimacy criteria. Such guidance is a useful tool that is often used under the Resource Conservation and Recovery Act (RCRA) to address these types of issues. The guidance could provide a clear guidepost for comparing traditional fuels with secondary materials. It potentially could clarify that certain non-hazardous secondary materials would not be considered solid waste when combusted and that the units combusting those materials can continue to be used as fuels without having to meet the CISWI standards. Mr. Stanislaus requested that the industry representatives provide the Agency with supporting data on traditional fuels that could further inform the development of such guidance, and asked for feedback on the approach he outlined. In addition to this approach, the Agency is also exploring other options.

We recognize that stakeholders have also raised other issues with the NHSM rule. We are continuing to evaluate those issues expeditiously.

I believe we have made significant progress in addressing the concerns raised by the industry. I will continue to watch the issue closely and keep you informed. My goal is to bring these issues to closure as soon as possible.

Sincerely,



Lisa P. Jackson

United States Senate

WASHINGTON, DC 20510

AL 12-001-3660

August 6, 2012

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Dear Administrator Jackson:

As you are aware, the U.S. Environmental Protection Agency (EPA) recently published two Notices of Data Availability (NODAs) related to the EPA's proposed rule governing cooling water intake structures under Section 316(b) of the Clean Water Act. We agree these NODAs raise critically important issues regarding cost-effective approaches to regulating affected facilities while protecting fishery resources; however, we believe the proposed rule has the potential to impose enormous costs on consumers without providing human health benefits or significant improvements to fish populations.

As a result, we believe the EPA needs to make a number of substantial improvements to the proposed rule before issuing it in final form. In addition, we are concerned by the "willingness-to-pay" public opinion survey, which we believe is misleading and will artificially inflate the rule's purported benefits. This rule will affect more than one thousand coal, nuclear and natural gas power plants and manufacturing facilities. Therefore, we urge you to ensure that the final rule provides ample compliance flexibility to accommodate the diversity of these facilities. Specifically, we request the EPA to address the following critical issues:

Flexibility. The proposed rule correctly provides state governments with the lead authority to make site-specific evaluations to address entrainment. It is vitally important the EPA's final rule retain this compliance flexibility, allowing technology choices to be made on a site-specific basis reflecting costs and benefits. We encourage the EPA to adopt these features in the impingement parts of the rule as well.

Aligned Compliance Deadlines. The final rule should extend the compliance deadline for impingement to the longer proposed deadline for entrainment, thereby providing adequate time to allow companies to make integrated, cost-effective compliance decisions.

Impingement Requirements. The proposed rule includes a stringent national numeric impingement standard that would be impossible for facilities to meet, even those with state-of-the-art controls. In fact, the technology preferred by the EPA – advanced traveling screens and fish return systems – is unable to meet the proposed standard on a reliable basis. We believe the final rule should instead provide multiple pre-approved technologies that would be recognized, once installed and properly operated, as sufficient to address impingement concerns. In cases where such technologies are not feasible or cost-beneficial, the rule should provide an alternative compliance option and relief where it can be shown there are *de minimis* impingement or entrainment impacts on fishery resources.

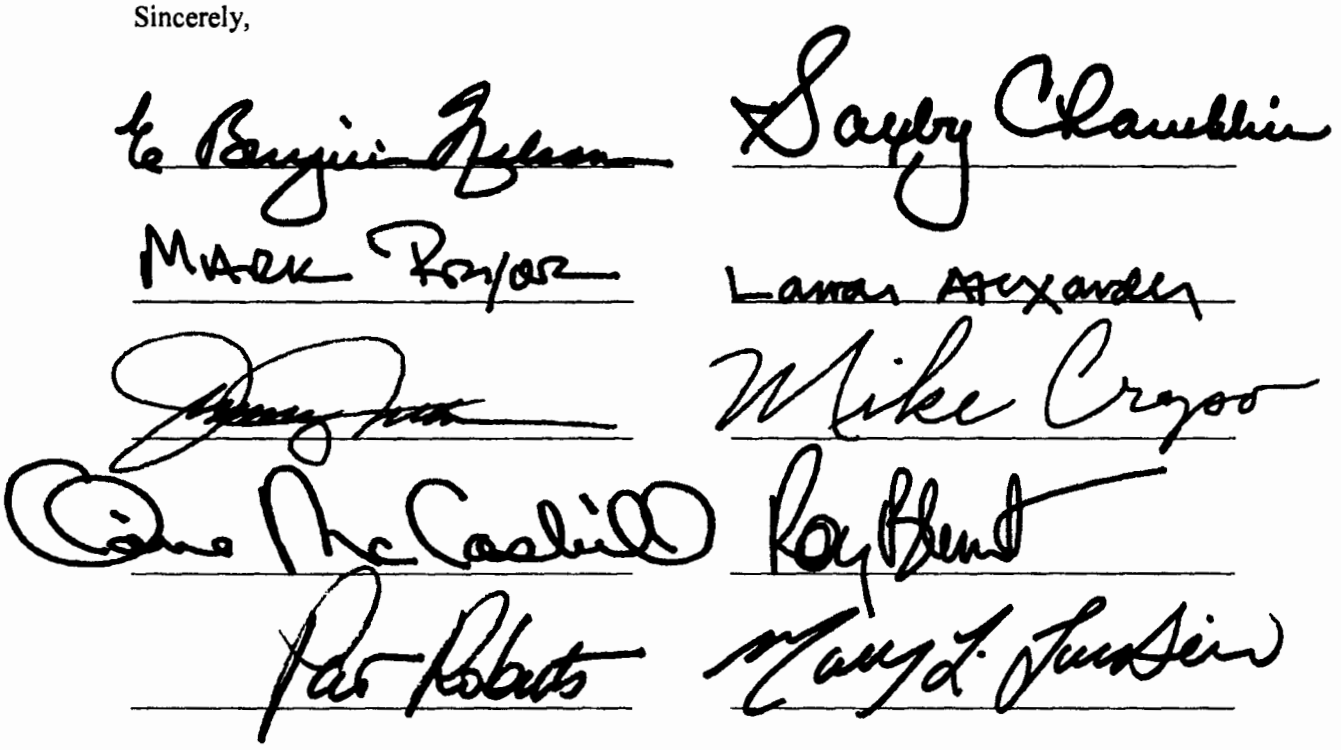
Definition of Closed-Cycle Cooling. Many facilities today have closed-cycle cooling systems. The rule should ensure that the definition of what qualifies as closed-cycle systems at existing facilities is not more stringent than the one the EPA has already adopted for new facilities. Further, the definition should include any closed-cycle system recirculating water during normal operating conditions; and the definition must not exclude impoundments simply because they are considered waters of the United States.

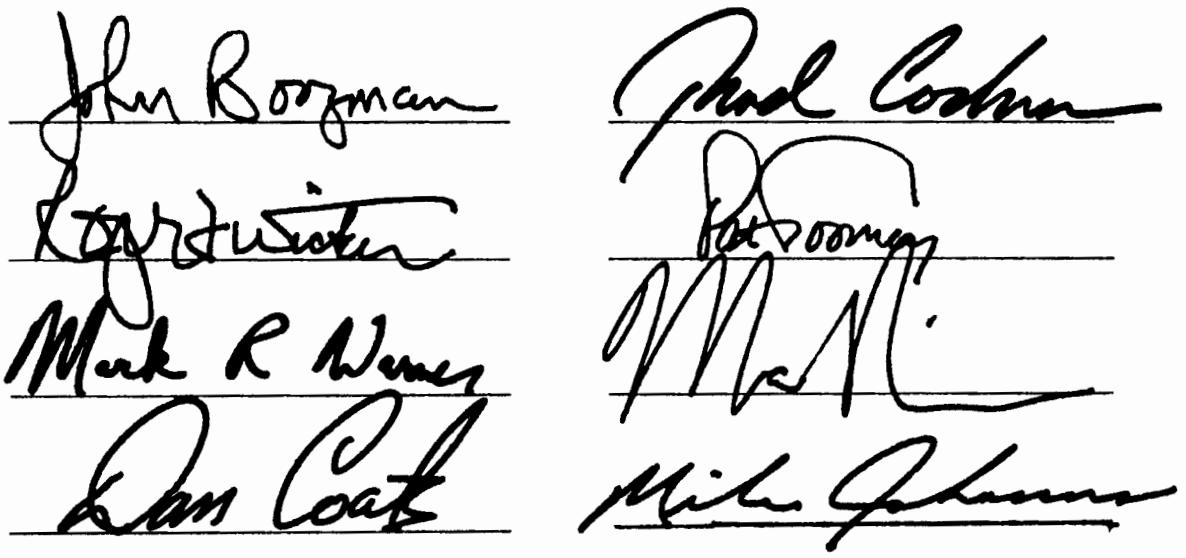
Public Opinion Survey. We feel strongly that the EPA should not rely upon the "willingness-to-pay" public opinion survey discussed in the second NODA. The public opinion survey method is highly controversial and does not provide a scientific basis for reliable results; and we believe the survey results published thus far by the EPA lack peer review and, consequently, are insufficiently analyzed. This approach to economic analysis is far too speculative to serve as a basis for national regulatory decision-making, presenting very worrisome national, legal, policy, and governance implications which go well beyond this rulemaking.

For these reasons, we believe the EPA should issue the final rule this year without further consideration or inclusion of the public opinion survey results in order to provide regulatory and business certainty to those companies facing significant capital decisions related to compliance with this and other EPA rules. Rather than using a misleading survey to inflate the rule's benefits, the EPA should adopt the above improvements, which would help to reduce the current substantial disparity between the proposed rule's costs and benefits. Such actions by the EPA would also conform to the President's Executive Order 13563, issued in January 2011, directing agencies to adopt rules minimizing regulatory burden and producing maximum net benefits.

Thank you for your consideration of our concerns. We look forward to your response.

Sincerely,





cc: Jacob J. Lew, Chief of Staff, Office of the President
Jeffrey Zients, Acting Director, Office of Management and Budget
Cass R. Sunstein, Administrator, Office of Information and Regulatory Affairs

United States Senate

WASHINGTON, DC 20510

May 5, 2011

AL 11-000-7103

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator Jackson:

As you are aware, Congress passed H.R. 1473, the Department of Defense and Full-Year Continuing Appropriations Act of 2011, last month. Unfortunately, this legislation did not include specific language to provide funding for technical assistance and training for rural water utilities. This funding has been critical in helping rural communities comply with national drinking water standards since 1976. In dealing with complex regulations, small communities often need assistance to improve and protect their water resources. In implementing national priorities and standards, we must also address the unique needs of these communities.

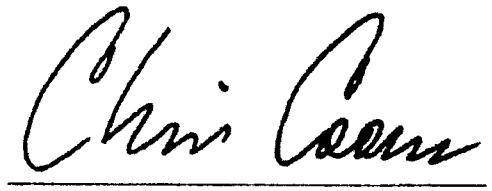
Secondly, it is important to place greater weight on initiatives that are effective and produce tangible results when making funding decisions. The technical assistance made possible by past funding of this program has enabled rural water utilities to provide quality drinking water in spite of their limited economies of scale. This assistance has and will continue to help rural water systems from Louisiana to Kansas to Alaska, and every other state in the nation, comply with national laws and regulations.

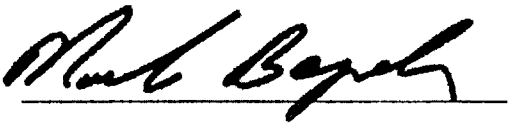
We respectfully request that you allocate $15 million in the Environmental Protection Agency Programs and Management account to carry out the Safe Drinking Water Act's technical assistance authorization provision (PL 104-182, 42 USC § 300j-1). If it is not possible to fund this competitive grant program, please let us know how the Environmental Protection Agency intends to ensure our nation's rural communities have the resources necessary to deliver safe drinking water. Thank you in advance for your consideration of this critical issue.

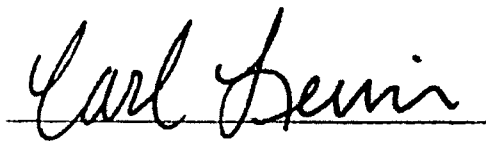
Sincerely,

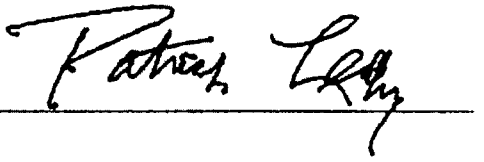
Mary L. Landrieu

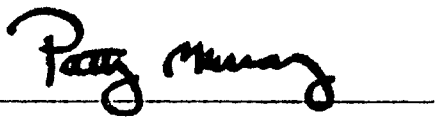
Jerry Moran

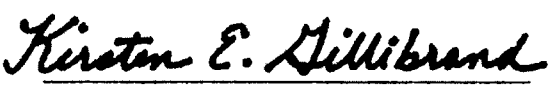


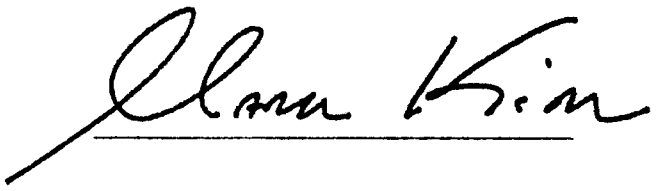


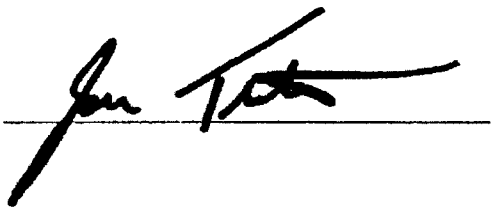


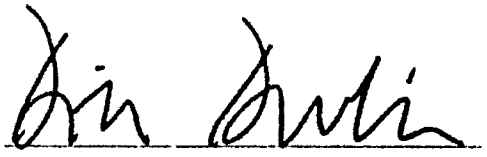


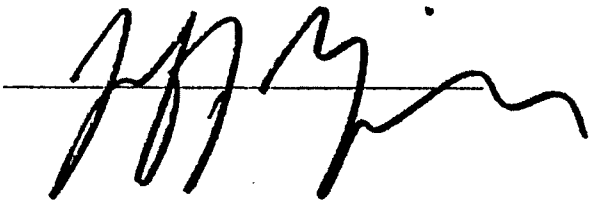












MARK ROYER

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN - 6 2011

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Mark L. Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of May 5, 2011, to Lisa Jackson, Administrator of the U.S. Environmental Protection Agency (EPA), requesting that the Agency allocate $15 million in its Programs and Management account to carry out the Safe Drinking Water Act's technical assistance authorization provision. As you describe, small communities often need assistance to improve and protect their water resources.

EPA gives consideration to the Nation's many critical environmental concerns and threats to human health, including those pertaining to rural water utilities. The Agency shares your commitment to supporting the needs of rural water utilities to help them comply with national laws and regulations.

The Agency is currently working to determine the best approach to support the technical assistance and training needs of rural communities. As the FY 2011 Enacted Operating Plan has recently been finalized, the review of options is ongoing.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Christina Moody, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,

Barbara J. Bennett
Chief Financial Officer

United States Senate

WASHINGTON, DC 20510

AL 09-000-9286

June 5, 2009

The Honorable Lisa Jackson
Administrator, Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Jackson:

We are writing in response to the Environmental Protection Agency's (EPA) consideration of a proposal to increase the ethanol blend level in gasoline beyond the current 10 percent. We urge you to ensure that independent and comprehensive testing has been completed prior to approving any waiver from current EPA guidance as required under the Clean Air Act.

Some have advocated that Congress or the EPA approve mid-level ethanol blends before comprehensive testing has been completed by qualified and independent testing bodies, and all relevant federal agencies. While we strongly support the use of renewable fuels, it is our understanding that to date only preliminary assessments have been conducted relative to long-term durability, tailpipe emissions, evaporative emissions, drivability, materials compatibility, emissions inventory and on-board diagnostic integrity. Any waiver to increase the ethanol blend level must be based upon more complete testing.

In addition to potential technical, consumer protection and air quality issues that have not been adequately studied, we believe that this could potentially have negative consequences for many Americans in these challenging economic times. We feel strongly that any proposal to increase ethanol levels must be subjected to a complete assessment of what such an increase might do to the economy and the feedstock markets generally that our livestock and poultry producers rely on every day. We urge you to assess more thoroughly the potential impacts of increasing the ethanol blend before any changes are made.

We thank you for your attention to this matter.

Sincerely,

cc: The Honorable Steven Chu, Secretary, U.S. Department of Energy
The Honorable Tom Vilsack, Secretary, U.S. Department of Agriculture
The Honorable Carol Browner, Assistant to the President for Energy and Climate Change

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 20 2009

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your June 5, 2009, letter to Administrator Jackson, co-signed by 20 of your colleagues, concerning a pending Clean Air Act (Act) waiver request to increase the allowable ethanol content of gasoline from 10 to 15 percent by volume. Your letter expresses concerns about the potential adverse impact mid-level ethanol blends might have on engines, and urges the U.S. Environmental Protection Agency (EPA) to ensure independent and comprehensive testing is complete before making a waiver decision. You also discuss potential negative consequences for consumers in challenging economic times and request that we carefully assess the impact of increasing ethanol blend levels on our economy and on feedstock markets.

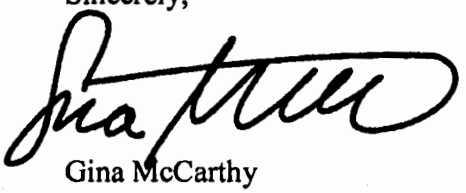
As you know, EPA is carefully considering the waiver request we received from Growth Energy on March 6, 2009. A notice of its receipt and request for public comment was published in the Federal Register on April 21, 2009, and the comment period will remain open until July 20. We will place your comments in the public docket.

The issues raised by the waiver request are very important and complex. The criteria in the Clean Air Act for evaluating a waiver request are very specific. The Act only requires that the waiver applicant demonstrate that the ethanol increase will not cause or contribute to the failure of vehicles or engines to meet emission standards.

While we are not able to directly consider economic impacts as factors in the waiver decision, these impacts are nonetheless important. Therefore EPA is working closely with the U.S. Department of Energy (DOE) and the U.S. Department of Agriculture (USDA) to analyze economic issues and other impacts as part of our renewable fuels standard rulemaking effort. The proposed rule is currently open for public comment.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Frantz in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3668.

Sincerely,



Gina McCarthy
Assistant Administrator

United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY
WASHINGTON, DC 20510-6000
202-224-2035

AL 10-001-1342

July 2, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We are very concerned about the U.S. Environmental Protection Agency's (EPA) decision in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule to consider the emissions from biomass combustion the same as emissions from fossil fuels.

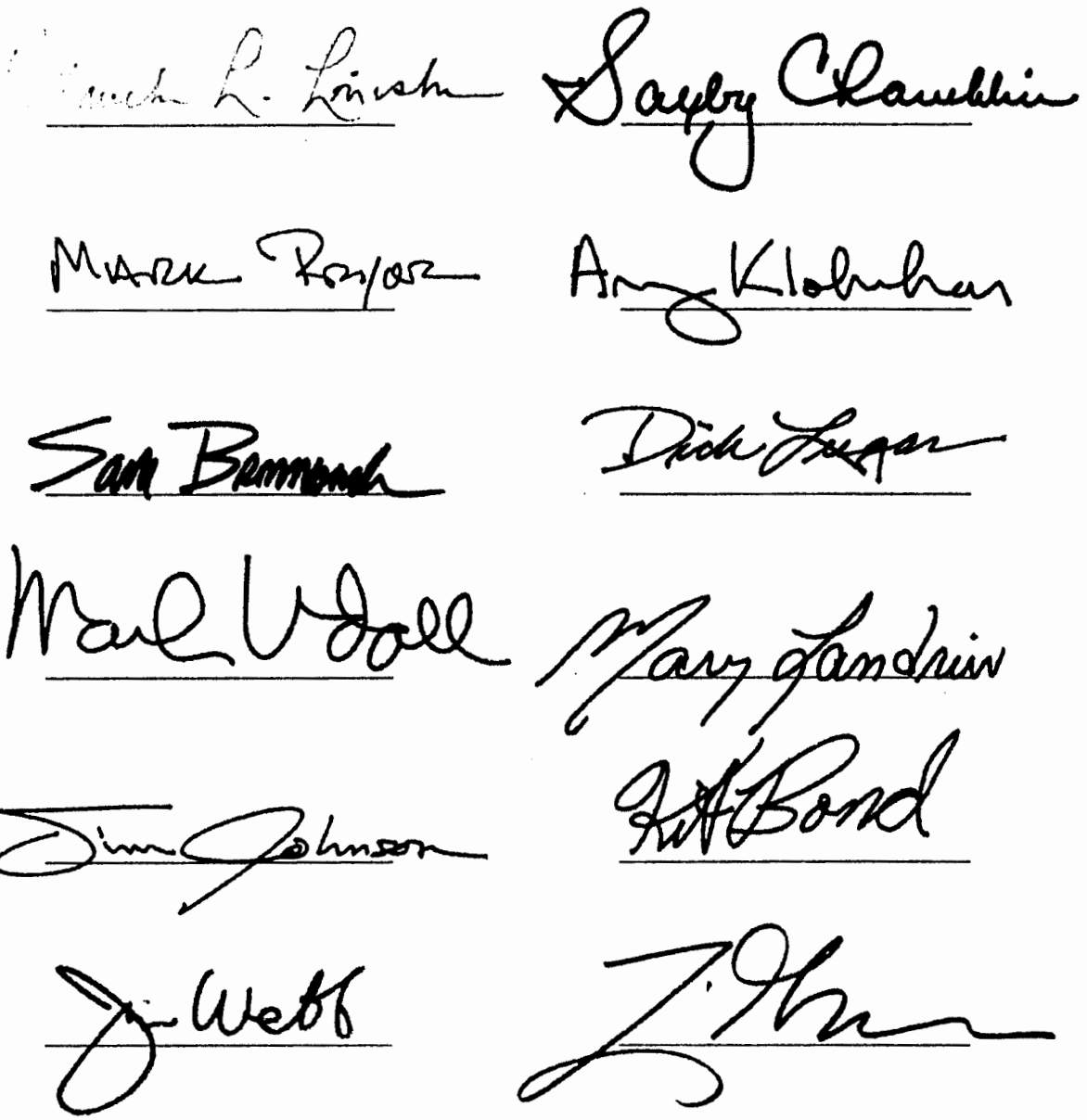
EPA's decision contradicts long-standing U.S. policy, as well as the agency's own proposed Tailoring Rule. Emissions from the combustion of biomass are not included in the Department of Energy's voluntary greenhouse gas (GHG) emissions reporting guidelines and neither are they required to be reported under EPA's GHG Reporting Rule. In the proposed Tailoring Rule, EPA proposed to calculate a source's GHG emissions based upon EPA's Inventory of U.S. GHG Emissions and Sinks. The GHG Inventory excludes biomass emissions.

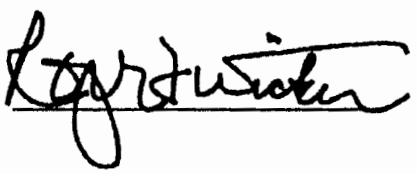
We think you would agree that renewable biomass should play a more significant role in our nation's energy policy. Unfortunately, the Tailoring Rule is discouraging the responsible development and utilization of renewable biomass. It has already forced numerous biomass energy projects into limbo. We are also concerned that it will impose new, unnecessary regulations on the current use of biomass for energy.

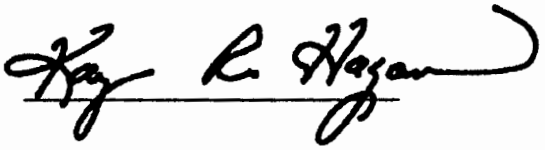
We appreciate that EPA intends to seek further comments on how to address biomass emissions under the PSD and Title V programs. With this rule, the agency has made a fundamental change in policy with little explanation. We strongly encourage you to reconsider this decision and immediately begin the process of seeking comments on it. In addition, we appreciate Secretary of Agriculture Tom Vilsack's commitment to working with EPA on this issue and encourage you to utilize the expertise of the U.S. Department of Agriculture.

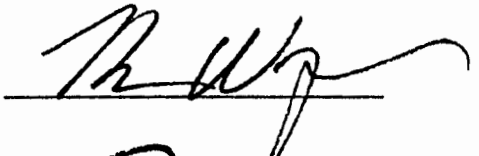
Please let us know as soon as possible the agency's plans on this matter. We appreciate your attention to this important issue.

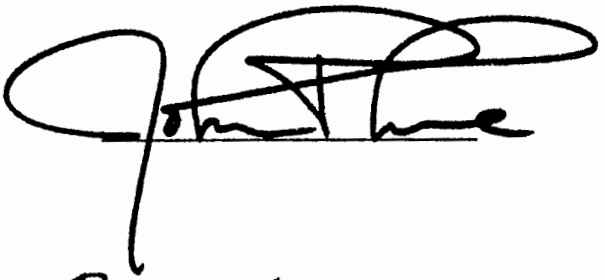
Sincerely,

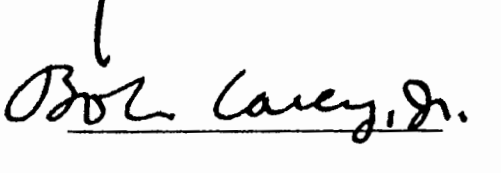


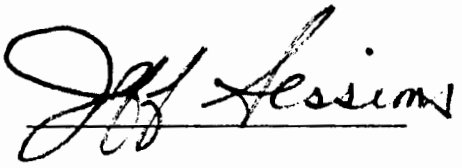


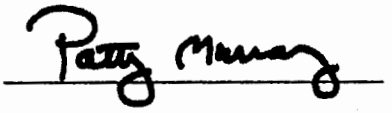


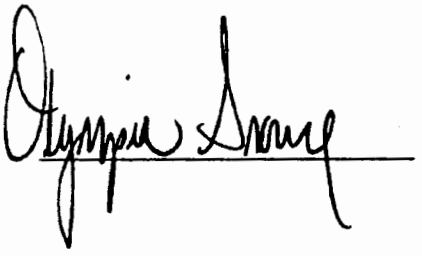


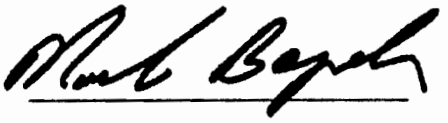


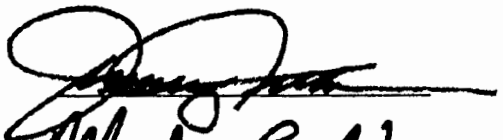


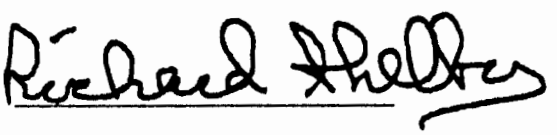


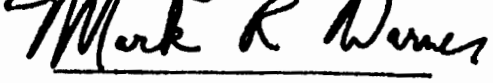












UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 09 2010

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20515

Dear Senator Pryor:

Thank you for your July 2, 2010, letter to Administrator Jackson raising concerns regarding the treatment of biomass combustion emissions in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule (the "Tailoring Rule"). At her request, I am writing to respond.

I would like to address your comments about the treatment of biomass combustion emissions in the final Tailoring Rule and to assure you that we plan to further consider how the PSD and Title V permitting programs apply to these emissions.

As you noted, the final Tailoring Rule does not exclude biomass-derived carbon dioxide emissions from the calculations for determining PSD and Title V applicability for GHGs. To clarify a point made in your letter, the proposed Tailoring Rule also did not propose to exclude biomass emissions from the calculations for determining PSD and Title V applicability for GHGs. The proposed Tailoring Rule pointed to EPA's Inventory of Greenhouse Gas Emissions and Sinks for guidance on how to estimate a source's GHG emissions on a CO_2-equivalent basis using global warming potential (GWP) values[1]. This narrow reference to the use of GWP values for estimating GHG emissions was provided to offer consistent guidance on how to calculate these emissions and not as an indication, direct or implied, that biomass emissions would be excluded from permitting applicability merely by association with the national inventory.

We recognize the concerns you raise on the treatment of biomass combustion emissions for air permitting purposes. As stated in the final Tailoring Rule, we are mindful of the role that biomass or biogenic fuels and feedstocks could play in reducing anthropogenic GHG emissions, and we do not dispute observations that many federal and international rules and policies treat biogenic and fossil fuel sources of CO_2 emissions differently. Nevertheless, we explained that the legal basis for the Tailoring Rule, reflecting specifically the overwhelming permitting burdens that would be created under the statutory emissions thresholds, does not itself provide a rationale for excluding all emissions of CO_2 from combustion of a particular fuel, even a biogenic one.

[1] See 74 FR 55351, under the definition for 'carbon dioxide equivalent'.

The fact that in the Tailoring Rule EPA did not take final action one way or another concerning such an exclusion does not mean that EPA has decided that there is no basis for treating biomass CO_2 emissions differently from fossil fuel CO_2 emissions under the Clean Air Act's PSD and Title V programs. The Agency is committed to working with stakeholders to examine appropriate ways to treat biomass combustion emissions, and to assess the associated impacts on the development of policies and programs that recognize the potential for biomass to reduce overall GHG emissions and enhance U.S. energy security. Accordingly, today we issued a Call for Information[2] asking for stakeholder input on approaches to addressing GHG emissions from bioenergy and other biogenic sources, and the underlying science that should inform these approaches. Taking into account stakeholder feedback, we will examine how we might address such emissions under the PSD and Title V programs. We will move expeditiously on this topic over the next several months. As we do so, we will continue to work with key stakeholders and partners, including the U.S. Department of Agriculture, whose offices bring recognized expertise and critical perspectives to the issues at hand.

Thank you again for your continued interest in this issue. If you have any questions, please contact me, or your staff may contact Cheryl Mackay in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

Gina McCarthy
Assistant Administrator

[2] Posted online at http://www.epa.gov/climatechange/emissions/biogenic_emissions.html

United States Senate

WASHINGTON, DC 20510

AL 10-001-3141

July 29, 2010

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

With the recent publication of the Environmental Protection Agency's (EPA) proposal for regulating coal combustion residues (CCRs), we write to express our concerns about the serious economic and environmental consequences resulting from the regulation of CCRs as a special listed waste under subtitle C of the Resource Conservation and Recovery Act (RCRA).

Despite decades of work by the EPA confirming that the regulation of CCRs under RCRA's subtitle C hazardous waste program is not warranted, the proposed subtitle C option would reverse these prior conclusions and regulate CCRs under RCRA's hazardous waste controls, placing unworkable facility and operational requirements on our state utilities. Indeed, the subtitle C option would regulate CCRs more stringently than any *other* hazardous waste by applying the hazardous waste rules to certain inactive and previously closed CCR units. EPA has never before interpreted RCRA in this manner in its 30 years of administering the federal hazardous waste rules. The subtitle C approach simply is not supportable given its myriad adverse consequences and the availability of an alternative, less burdensome regulatory option under RCRA's non-hazardous waste rules that, by EPA's own admission, will provide an equal degree of protection to public health and the environment.

Moreover, we are concerned that the subtitle C option will result in the loss of important high-paying jobs in the CCR beneficial reuse and related "green" jobs markets, at a time when unemployment is high and the pace of economic recovery is uncertain. Federal policies should encourage greater recycling of CCRs by facilities that use coal. Despite assurances by the Administration that regulation of CCRs under subtitle C would have no negative impact on the beneficial reuse market, the mere discussion of regulating CCRs under RCRA's hazardous waste program has already produced a downturn in the market for these materials. We believe that those who argue that beneficial use of CCRs will increase under the subtitle C option do not appreciate the realities of the potential legal liabilities under today's tort system. The reality is that the market place is already reacting negatively to these concerns, and we are losing important green jobs, along with the greenhouse gas emission reduction benefits that flow from the use of CCRs in numerous products, particularly in transportation infrastructure projects.

We are also deeply concerned that the subtitle C approach will, in one fell swoop, increase by approximately *50-fold* the volume of hazardous waste disposed of annually in land disposal units (from the current volume of two million tons per year to over 100 million tons of CCRs disposed of annually). This will create an immediate and critical shortfall in hazardous waste disposal capacity, adversely impacting the pace of cleanups under Superfund and other ongoing federal

and state remedial and Brownfield programs. In fact, state environmental protection agencies from around the Nation have repeatedly cautioned EPA that the subtitle C approach for CCRs will overwhelm existing hazardous waste disposal capacity and further strain already stretched budgets and staff resources. It makes no sense to impose these adverse consequences on the existing hazardous waste program and state resources for a material that EPA has repeatedly found does not warrant regulation under RCRA subtitle C.

Given the ash spill disaster at the Tennessee Valley Authority's Kingston facility in 2008, we understand the EPA raising concerns about the handing and storage of CCRs. All operators should take appropriate precautions and those who fail to do so should be held accountable. However, in light of the nearly unanimous opposition from the states and the opposition and concern expressed by other federal agencies that participated in the interagency review process of the CCR proposal, we urge EPA not to pursue the subtitle C option. Instead, there is little question that EPA can develop a federal program for CCR disposal practices under RCRA's subtitle D non-hazardous waste program that ensures protection of human health and the environment without the attendant adverse consequences of the Subtitle C option on jobs, CCR beneficial uses and state budgets and resources. Again, we strongly recommend the EPA pursue a subtitle D approach for CCRs.

Thank you for your consideration of this important matter. We look forward to your response and working with you to address this issue in a manner that is both environmentally and economically sound.

Sincerely,

Sam Brownback
United States Senate

Kent Conrad
United States Senate

Mary L. Landrieu
United States Senate

Johnny Isakson
United States Senate

Christopher S. Bond
United States Senate

Pat Roberts
United States Senate

David Vitter
United States Senate

Thad Cochran
United States Senate

Michael B. Enzi
United States Senate

Lisa Murkowski
United States Senate

Blanche L. Lincoln
United States Senate

George V. Voinovich
United States Senate

Byron L. Dorgan
United States Senate

Ben Nelson
United States Senate

James M. Inhofe
United States Senate

Jim Bunning
United States Senate

John Barrasso
United States Senate

Saxby Chambliss
United States Senate

Jeff Sessions
United States Senate

Lamar Alexander
United States Senate

Evan Bayh
United States Senate

Mark L. Pryor
United States Senate

Claire McCaskill
United States Senate

John Cornyn
United States Senate

Roger F. Wicker
United States Senate

Max Baucus
United States Senate

Lindsey Graham
United States Senate

Mark R. Warner
United States Senate

Herb Kohl
United States Senate

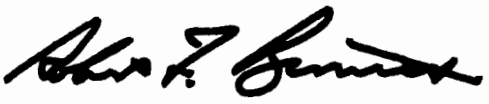
Richard Burr
United States Senate

Jim Webb
United States Senate

Bob Corker
United States Senate

Orrin G. Hatch
United States Senate

Mike Johanns
United States Senate



Robert F. Bennett
United States Senate

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 2 2010

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of July 29, 2010 to U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson, expressing your interest in EPA's proposed rulemaking governing the management of coal combustion residuals (CCRs) and the potential adverse impacts associated with a possible re-classification of CCRs as a hazardous waste. I appreciate your interest in these important issues.

In the proposed rule, EPA seeks public comment on two approaches available under the Resource Conservation and Recovery Act (RCRA). One option is drawn from remedies available under Subtitle C, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The other option includes remedies under Subtitle D, which gives EPA authority to set performance standards for waste management facilities which are narrower in scope and would be enforced primarily by those states who adopt their own coal ash management programs and by private citizen suits.

EPA is not proposing to regulate the beneficial use of CCRs. EPA continues to strongly support the safe and protective beneficial use of CCRs. However, EPA has identified concerns with some uses of CCRs in an unencapsulated form, in the event proper practices are not employed. The Agency is soliciting comment and information on these types of uses.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

AL-11-001-0306

United States Senate

WASHINGTON, DC 20510

June 27, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

We are writing to you today with our concerns regarding the implementation timeline for the Oil Spill Prevention, Control and Countermeasure (SPCC) rule for farmers.

First we would like to thank you for finalizing the exemption of milk and milk product containers from the SPCC rule on April 12, 2011. We appreciate your attentiveness to the feedback you received from the agriculture community. We also appreciate your willingness to prevent the unintended consequences of the SPCC regulations, which would have placed a tremendous burden on the agricultural community.

We are writing to you today with our concerns regarding the implementation timeline for the SPCC rule for farmers. As you know, last year the EPA proposed extending the compliance date under the SPCC rule to November of 2011. We applaud EPA's current extension for farms that came into business after August of 2002. We also appreciate the efforts of EPA and USDA to inform farmers about the new guidelines -- in particular, USDA's new pilot initiative to help producers comply with the new SPCC rule. However, we remain concerned that EPA has not yet undertaken the outreach necessary to ensure that all farms have sufficient opportunity to meet their obligations under the regulation.

SPCC regulations are applicable to any facility, including farms, with an aggregate above-ground oil storage capacity of 1,320 gallons in tanks of 55 gallons or greater. To comply with this rule, farms where there is a risk of spilled oil reaching navigable waters may need to undertake costly engineering services, as well as infrastructure improvements, to assure compliance with the regulation. Despite setting stringent standards, the EPA has done little to make sure small farms can meet the requirements set forth in the SPCC rule.

We strongly believe farmers want to be in compliance with the rule, but in order to do so they will need a longer period during which EPA undertakes a vigorous outreach effort with the agricultural community. Currently, the farming community in many instances lacks access to Professional Engineers (PEs). We have heard from many farmers who cannot find PEs willing or able to work on farms. In some states, no qualified professional engineers have even registered to provide SPCC consultation. In others, fewer than five have registered. Without access to PEs, it will be impossible for farmers to become SPCC compliant.

Recently released draft guidance on waters of the United States by the EPA and the U.S. Army Corps of Engineers also appear to dramatically expand the agencies' authority with regard to which waters and wetlands are considered "adjacent" to jurisdictional "waters of the United States" under the Clean Water Act. Many farm and ranch families are worried that this guidance could now force them to comply with the SPCC rule, with very little time to do so. Additionally, the delay of compliance assistance documentation has put farmers far behind the curve in preparing for compliance. Had the information and documentation been available before the January grower meetings, the compliance process could have begun before the time intensive growing season.

Furthermore, EPA still needs to clarify exactly who is responsible for holding and maintaining the plan, as many farms are operated by people who do not own the land. EPA also needs to clarify how it plans to enforce the rule.

The last thing we want is for confusion or an overly burdensome rule to disincentivize compliance. Many farmers do not keep their tanks full during the entire year, and we have already heard from associations whose members are considering decreasing the size of their tanks so they will not be subject to SPCC compliance. This could eliminate their ability to buy fuel in bulk, thus increasing their costs and the costs of food production.

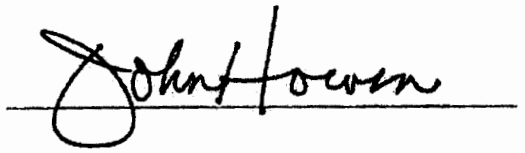
Small family farms have a natural incentive to prevent any possible oil spills on their property. No one wants more oil spills. In fact, the last people who want to spill oil are family farm owners. The impact of dealing with a costly clean-up could be devastating to the finances of a small farm.

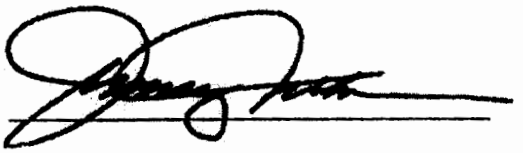
We respectfully request that you re-consider the implementation deadline, continue to dialogue with the agricultural community to answer their questions, and ensure that the rule is not overly burdensome or confusing. We believe this will help avoid the rule's unintended consequences. We appreciate your attention to this important matter.

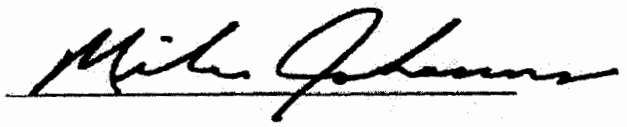
Sincerely,

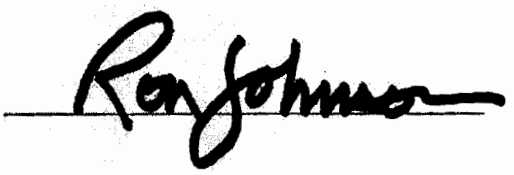
James M. Inhofe
United States Senator

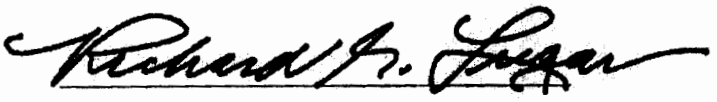
Kent Conrad
United States Senator

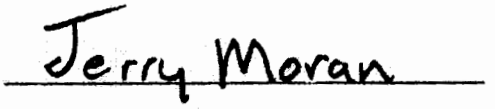


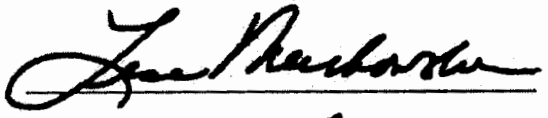


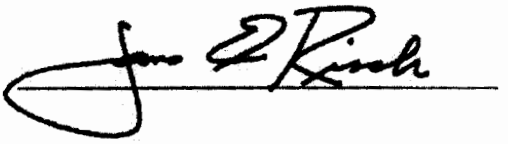


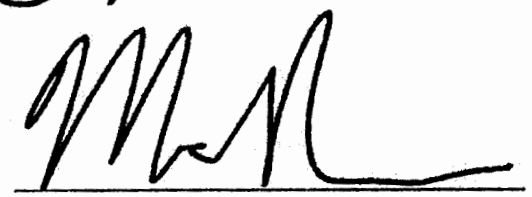


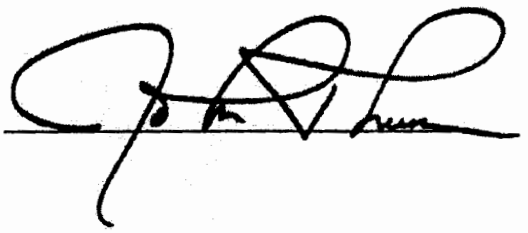


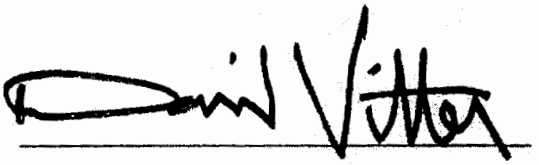












UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 12 2011

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

Dear Senator Pryor:

Thank you for your letter of June 27, 2011, to the U.S. Environmental Protection Agency regarding the Spill Prevention, Control and Countermeasure (SPCC) rule. In your letter, you cited concerns with the implementation timeline for the SPCC rule for farmers and indicated that farmers need additional time to comply with the rule revisions. I understand your concerns and I appreciate the opportunity to share important information about assistance for the agricultural community.

By way of background, the SPCC rule has been in effect since 1974. The EPA revised the SPCC rule in 2002 and further tailored, streamlined and simplified the SPCC requirements in 2006, 2008 and 2009. During this time, the EPA extended the SPCC compliance date seven times to provide additional time for facility owner/operators to understand the amendments and to revise their Plans to be in compliance with the rule. The amendments applicable to farms, among other facilities, provided an exemption for pesticide application equipment and related mix containers, and clarification that farm nurse tanks are considered mobile refuelers subject to general secondary containment like airport and other mobile refuelers. In addition, the agency modified the definition of facility in the SPCC regulations, such that adjacent or non-adjacent parcels, either leased or owned by a person, including farmers, may be considered separate facilities for SPCC purposes. This is relevant because containers on separate parcels (that the farmer identifies as separate facilities based on how they are operated) do not need to be added together in determining whether they are subject to the SPCC requirements. Thus, if a farmer stores 1,320 US gallons of oil or less in aboveground containers or 42,000 US gallons or less in completely buried containers on separate parcels, they would not be subject to the SPCC requirements. (In determining which containers to consider in calculating the quantity of oil stored, the farmer only needs to count containers of oil that have a storage capacity of 55 US gallons and above.)

Your letter expresses concern about a lack of Professional Engineers (PE) available to certify SPCC Plans. However, most farmers do not need a PE to comply with the SPCC requirements. When the SPCC rule was originally promulgated in 1973, it required that every SPCC Plan be PE certified. However, the EPA amended the SPCC rule in 2006, and again in 2008, to create options to allow qualified facilities (i.e. those with aboveground oil storage capacities of 10,000 gallons or less and clean spill histories) to self-certify their Plans (no PE required) and, in some cases, complete a template that serves as the SPCC Plan for the facility. The SPCC rule requires that the owner or operator of the facility (in this case, a farm) prepare and implement an SPCC Plan. The Plan must be maintained at the location of the farm that is normally attended at least four hours per day. The EPA updated the Frequent Questions on the SPCC Agriculture webpage to include this clarification.

Additionally, during development of the SPCC amendments EPA and the U.S. Department of Agriculture (USDA) gathered information that indicated that approximately 95 percent of farms covered

by the SPCC requirements are likely to qualify to self-certify their Plan—that is, no PE certification. Farmers that require the use of a PE and have difficulty finding one before the compliance date may contact the EPA Regional Administrator for the region in which they are located and request a time extension to amend and prepare an SPCC Plan.

EPA understands the issues raised by the farm community and is currently evaluating the best approach to resolve the identified issues. We are working hard to explore viable options for addressing the concerns you have raised. At a minimum, as noted above, those farmers who cannot meet the November 10, 2011, compliance date may request an extension as provided for specifically under 40 CFR 112.3 (f), which states:

> " *Extension of time:* The Regional Administrator may authorize an extension of time for the preparation and full implementation of a Plan, or any amendment of a Plan thereto, beyond the time permitted for the preparation, implementation, or amendment of a Plan under this part, when he finds that the owner or operator of a facility subject to the section, cannot fully comply with the requirements as a result of either nonavailability of qualified personnel, or delays in construction or equipment delivery beyond the control and without the fault of such owner or operator or his agents or employees...."

Among the options we are exploring is an appropriate and expeditious process by which such an extension could be of value in addressing the legitimate concerns raised on behalf of agricultural producers.

The Frequent Questions on the EPA's SPCC for Agriculture webpage reflect this information to ensure that farmers are aware that an extension is possible and to describe the process to request such an extension. The address for that website is *http://www.epa.gov/emergencies/content/spcc/spcc_ag.htm.* We will continue to explore opportunities that would trigger approval of such exemption requests and will investigate mechanisms to help farmers request an extension.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586. We also welcome your suggestions for additional outreach and compliance assistance approaches.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

AL-12-000-3205

MARK PRYOR
ARKANSAS
COMMITTEES:
APPROPRIATIONS
COMMERCE, SCIENCE, AND TRANSPORTATION
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SMALL BUSINESS AND ENTREPRENEURSHIP
RULES AND ADMINISTRATION
SELECT COMMITTEE ON ETHICS

United States Senate

WASHINGTON, DC 20510

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500 PRESIDENT CLINTON AVENUE
SUITE 401
LITTLE ROCK, AR 72201
(501) 324-6336
TOLL FREE: (877) 259-9602
http://pryor.senate.gov

February 10, 2012

Ms. Margo Oge, Director
Office of Transportation and Air Quality
U.S. Environmental Protection Agency Fuels Programs Registration
OAR/OTAQ/TRPD/FPSG (Mail Code 6406J)
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

RE: Petition for Approval of Pathway for Cottonseed Oil Biodiesel as Biomass-Based Diesel

Dear Ms. Oge:

I am writing with regard to the petition submitted by the National Cottonseed Products Association (NCPA) seeking approval of cottonseed oil as an eligible feedstock for the Renewable Fuel Standard Program (RFS2). I urge you to expedite the consideration of this petition as much as possible.

It is my understanding that cottonseed oil used as a biodiesel feedstock is very similar, in terms of production and quality, to soybean and canola oil, which have already been approved by EPA. Approval of cottonseed oil as a biomass-based diesel fuel would provide additional market opportunities for cotton farmers and cottonseed processors. Eligibility for cottonseed will also provide another feedstock option for biodiesel production that can be locally sourced for biodiesel producers in regions where other feedstock are less prevalent or not economically available. I believe that approval of cottonseed oil would be consistent with the primary goals of the RFS2 program to displace petroleum, support and create jobs, significantly reduce greenhouse gas emissions and provide other environmental benefits.

The cotton industry is a vital part of the economy and the communities that I represent. While cottonseed oil is a small component of cotton production and the volumes of cottonseed biodiesel are not expected to be large, I believe eligibility for the RFS2 would have a beneficial economic impact on the industry and is entirely consistent with the energy and environmental goals of the program. Unlike other feedstock that might be under consideration by EPA, cottonseed is already in production in the U.S., has been used to produce biodiesel in the past, and has existing processing and production facilities that are located in proximity to biodiesel producers that will make fuel production feasible and likely.

Again, I urge you to expedite consideration of the NCPA petition. Thank you for your consideration and please let me know if I can be of assistance in any way.

Sincerely,

Mark Pryor

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 12 2012

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United State Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of February 10, 2012, regarding the petition submitted by the National Cottonseed Producers Association (NCPA) to the Environmental Protection Agency for cottonseed oil to be approved as an eligible feedstock under the Renewable Fuel Standard (RFS) program.

My staff is in receipt of the NCPA petition, dated December 12, 2011, and has begun working on our evaluation of renewable fuel derived from cottonseed oil pursuant to the analytical requirements spelled out in the Energy Independence and Security Act of 2007 and EPA's RFS regulations. A primary component of that evaluation process is an assessment of lifecycle greenhouse gas (GHG) emissions associated with the production and use of biofuels derived from a given feedstock. For a renewable fuel to qualify under the RFS program, that fuel's lifecycle GHG emissions must meet certain statutorily-defined thresholds. The EPA is currently in the midst of evaluating a handful of such petitions for a variety of fuel and feedstock pathways. We will continue to engage NCPA as we move forward with our evaluation.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

Gina McCarthy
Assistant Administrator

AL-13-000-7282

United States Senate

WASHINGTON, DC 20510

July 10, 2013

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Perciasepe:

As the Environmental Protection Agency (EPA) considers how to address emissions from bioenergy and other biogenic sources, we urge the agency to move forward quickly in proposing a new rule on biogenic carbon dioxide emissions.

EPA's 2011 Deferral for CO_2 Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration (PSD) and Title V Programs, known as the Deferral Rule, was finalized in 2011 and temporarily suspended the regulation of biogenic CO_2 emissions for three years. This deferral rule will expire on July 20, 2014.

In the interim, EPA has worked to better understand some of the scientific and technical issues on how to properly measure CO_2 emissions from biogenic sources. EPA's Draft Accounting Framework for Biogenic CO_2 and the subsequent Science Advisory Board's recommendations have provided useful insight into the complexities of lifecycle carbon dioxide emissions from biogenic sources. Our understanding is that EPA is now working on a final CO_2 accounting framework.

While we believe this CO_2 accounting framework should be completed, we also believe the EPA should continue this work in tandem with the development of a proposed rulemaking on biogenic carbon dioxide emissions. In our view, EPA should be cognizant that completing the rule before the July 2014 sunset of the Deferral Rule will be necessary to ensure regulatory certainty for facilities using biomass energy, which provides long-term greenhouse gas reduction benefits.

We also urge EPA to consider the following recommendations as the agency drafts a proposed rule for biogenic CO_2 emissions:

- Adopt a simple and practical regulatory framework.

- Approach forest carbon from a national scale and over long time frames to accurately capture the full carbon cycle rather than using small areas and short time frames that can distort carbon impacts.

- Use an inclusive interagency process that actively engages the U.S. Department of Agriculture, which has specific and applicable science and policy expertise.

Pursuing this approach will provide regulatory certainty for businesses that are key to supporting working forests and growing jobs in rural communities, while keeping biomass a financially viable renewable energy option. It also will help provide economic benefits to forest owners that enable them to keep their working forests intact rather than converting them to other land uses.

The President's Climate Action Plan emphasizes both the importance of preserving forests and the critical role of renewable energy in reducing carbon emissions, noting that the Administration has promoted worldwide the need for regulatory support for renewable energy projects. We believe EPA is facing just such an opportunity.

We hope EPA will quickly develop a proposed rule aimed at capturing the full carbon benefits of biomass, working forests, and forest products and at promoting jobs in rural America. We stand ready to work with you.

Sincerely,

Jeffrey A. Merkley
United States Senator

Max Baucus
United States Senator

Ron Wyden
United States Senator

Debbie Stabenow
United States Senator

Mark Pryor
United States Senator

Amy Klobuchar
United States Senator

Mark Begich
United States Senator

Jeanne Shaheen
United States Senator

Kay Hagan
United States Senator

Patty Murray
United States Senator

Angus King
United States Senator

Jon Tester
United States Senator

Mark Udall
United States Senator

cc:
Secretary Tom Vilsack, U.S. Department of Agriculture

AL-12-001-2866

THE WHITE HOUSE OFFICE
REFERRAL

July 24, 2012

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1089002
MEDIA:	EMAIL
DOCUMENT DATE:	July 19, 2012
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE SUSAN COLLINS UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	EXPRESSES COMMENT ON THE ENVIRONMENTAL PROTECTION AGENCY BOILER MACT RULES

COMMENTS:

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 63, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

7/23/2012

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: July 23, 2012 **CASE ID: 1089002**

NAME OF CORRESPONDENT: THE HONORABLE SUSAN COLLINS

SUBJECT: EXPRESSES COMMENT ON THE ENVIRONMENTAL PROTECTION AGENCY BOILER MACT RULES

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION CODE	ACTION DATE	DISPOSITION TYPE RESPONSE	DISPOSITION CODE	DISPOSITION DATE COMPLETED
LEGISLATIVE AFFAIRS	ROB NABORS	ORG	07/23/2012			
ACTION COMMENTS:						
✓ ENVIRONMENTAL PROTECTION AGENCY		R	07/24/2012			
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						

COMMENTS: 7 ADDL SIGNEES

Scanned by ORM

MEDIA TYPE: EMAIL **USER CODE:**

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT
ROOM 63, EEOB.

1089002

United States Senate

WASHINGTON, DC 20510

July 19, 2012

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Obama:

Given that the U.S. Environmental Protection Agency (EPA) has transmitted to OMB the reconsidered rules with regard to industrial boilers, known as the Boiler MACT rules, we are writing to reiterate our interest in this issue of great concern to manufacturers across the country. It has been our shared goal to ensure that the final Boiler MACT rules are achievable, affordable, and protective of public health and the environment, while preventing the loss of thousands of jobs that we can ill-afford to lose. Since the rules were first proposed, we acknowledge that significant revisions have been made. However, we continue to believe that the final rule must be strengthened to include additional compliance time to enable facilities that will be investing billions of dollars to rationally plan for the capital expenses, to clarify the fuel status of key biomass materials, and to establish achievable carbon monoxide (CO) limits for all fuels to ensure the intended benefits.

Considering the number of facilities involved and the complexity of the rules, it is necessary to provide compliance time beyond the traditionally provided three years, and we believe this is possible within the authorities provided to EPA and the President under the Clean Air Act. We request that the rules require that EPA or the states provide an extra year to comply if a facility meets reasonable criteria. We also believe that an additional year is warranted through presidential action. Additionally, the rules should clarify the status of key biomass residuals as fuels so that these materials can be used productively rather than placed into landfills with negative environmental consequences. The Boiler MACT rules should list wastewater treatment residuals as non-waste fuels, create a safe harbor or presumption for other biomass residuals, and eliminate the presumption that materials are wastes until proven otherwise. Finally, the current CO limits under the Boiler MACT rules, which are currently unachievable, should be adjusted for all fuels – biomass, coal, and oil – for both new and existing sources. These standards should be based on the capabilities of real-world boilers.

Final Boiler MACT rules that include flexibility to make the rules achievable and that are consistent with the intent of the Clean Air Act and your Executive Order 13563 to "identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends," are critical to preserving jobs in many manufacturing industries. The rules as they stand today could cost billions of dollars and thousands of jobs. We urge you to carefully consider this need for flexibility and these points as you evaluate the EPA's proposal.

Sincerely,

Susan Collins
United States Senator

Mark Pryor
United States Senator

Lamar Alexander
United States Senator

Mary Landrieu
United States Senator

Lisa Murkowski
United States Senator

Herb Kohl
United States Senator

Roy Blunt
United States Senator

Claire McCaskill
United States Senator

Copy To:

The Honorable Jack Lew, Chief of Staff, Executive Office of the President
The Honorable Cass Sunstein, Administrator, Office of Information and Regulatory
The Honorable Lisa Jackson, Administrator, Environmental Protection Agency
The Honorable Jeffrey Zients, Acting Director, Office of Management and Budget

AL-10-001-6198

United States Senate

WASHINGTON, DC 20510

September 24, 2010

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our concern about the EPA's proposed Maximum Achievable Control Technology (MACT) rules, including the so-called Boiler MACT and CISWI MACT, which were published in the Federal Register on June 4, 2010. As our nation struggles to recover from the current recession, we are deeply concerned that the pending Clean Air Act boiler MACT regulations could impose onerous burdens on U.S. manufacturers, leading to the loss of potentially thousands of high-paying jobs this sector provides. As the national unemployment rate hovers around 10 percent, and federal, state, and municipal finances continue to be in dire straits, our country should not jeopardize thousands of manufacturing jobs. The flow of capital for new investment and hiring is still seriously restricted, and the projected cost of compliance could make or break the viability of continued operations. Both small and large businesses are vulnerable to extremely costly regulatory burdens, as well as municipalities, universities and federal facilities.

The EPA's regulatory analysis understates the significant economic impacts of the proposed rule. For example, the impact will be substantial to small businesses, such as sawmills, which have large boilers. In addition, EPA has concluded that no additional large biomass fired boilers will be built in the United States, indicating the cessation of the domestic biomass industry. As a result, we are rightly concerned that the proposed standards appear to create serious obstacles to the development of biomass energy projects, which have the potential to significantly reduce air pollution and production of greenhouse gases. Further, we are concerned that if adopted as currently proposed, the boiler MACT rules would discourage the current use of wood biomass in wood, pulp, and paper facilities, and most likely result in significant job losses in these industries. While we support efforts to address serious health threats from air emissions, we also believe that regulations can be crafted in a balanced way that sustains both the environment and jobs.

In Section 101 of the Clean Air Act, Congress declared that one of the fundamental purposes of the Act is "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." Congress provided EPA with discretion in certain areas to carefully design regulations that protect health and the environment while promoting the productive capacity of the nation. We are writing today to ask that you exercise this discretion in completing the MACT rulemakings. We understand that the Boiler MACT rule alone could impose tens of billions of dollars in capital costs at thousands of facilities across the country. The CISWI rule would have devastating impact on the biomass industry. Thus, we appreciate your willingness, as expressed in your

responses to previous Congressional letters, to consider flexible approaches that appropriately address the diversity of boilers, operations, sectors, and fuels that could prevent severe job losses and billions of dollars in unnecessary regulatory costs.

To help reduce the burden of the rule in a manner that does not compromise public health and safety, we believe EPA should consider exercising the "health threshold" discretion that Congress provided under Section 112(d)(4) of the Act. Under this section of the law, for emissions that are considered safe to human health in concentrations that fall below an established threshold, EPA may use this risk information to set emissions standards. In reaching your final decision, we ask that you carefully consider the extensive record that supported the Agency's determination to include health-based emissions limitations for hydrogen chloride and manganese in the previous Boiler MACT rulemaking that was set aside by the reviewing court on wholly unrelated grounds.

EPA also should use a method to set emissions standards that are based on what real world best performing units actually can achieve. It is our understanding that the EPA emissions database does not truly reflect the practical capabilities of controls or the variability in operations, fuels and testing performance across the many regulated sectors and boilers, especially in light of the proposal's reliance on surrogates, such as carbon monoxide – a pollutant with wide variability in actual boiler operation especially from biomass-fired boilers. In addition, the Clean Air Act also provides EPA with broad discretion to subcategorize within a source category based on size, type and class of source to help ensure that the emission limitations are determined based on what real world best performing units can ultimately achieve in practice. We do not believe that EPA has fully exercised its responsibility to subcategorize the numerous types and combinations of boilers and fuels. In particular, we urge you to carefully consider how the regulations can promote energy recovery from renewable, alternative fuels such as biomass. Finally, we urge you to consider how work practices for all gas-fired units, such as biogas and land fill gas fired boilers, could avoid the increase in emissions (e.g., NOx and CO2) and energy use that would result from the numerous control technologies required with no guarantee of actually achieving the emission limits.

As EPA turns to developing final MACT rules, we hope you will carefully consider these recommendations and comments to protect the environment and public health while fostering economic recovery and jobs.

Sincerely,

Mary L. Landrieu
U.S. Senator

Susan M. Collins
U.S. Senator

Ron Wyden
U.S. Senator

Lamar Alexander
U.S. Senator

Evan Bayh
U.S. Senator

George V. Voinovich
U.S. Senator

Patty Murray
U.S. Senator

Olympia Snowe
U.S. Senator

Blanche Lincoln
U.S. Senator

Kit Bond
U.S. Senator

Robert Casey
U.S. Senator

Bob Corker
U.S. Senator

Amy Klobuchar
U.S. Senator

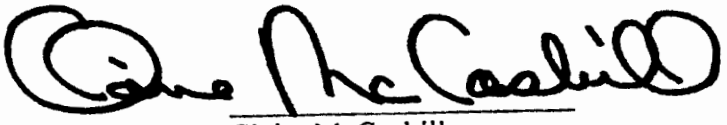
Richard Shelby
U.S. Senator

Mark Pryor
U.S. Senator

Roger Wicker
U.S. Senator

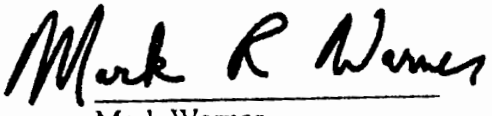
Mark Begich
U.S. Senator

Saxby Chambliss
U.S. Senator



Claire McCaskill
U.S. Senator

James Risch
U.S. Senator

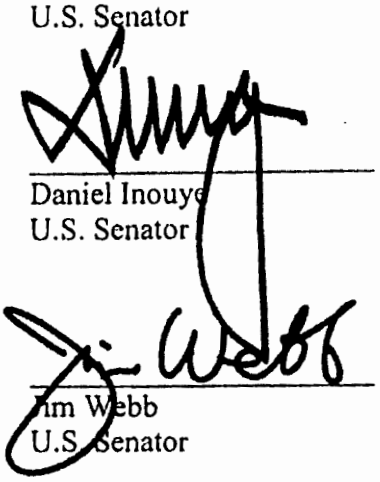


Mark Warner
U.S. Senator

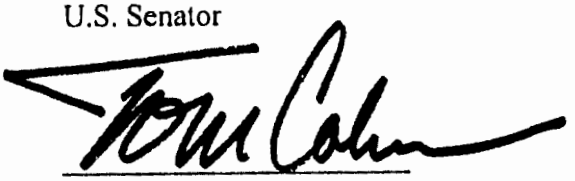
Richard Burr
U.S. Senator

Barbara Mikulski
U.S. Senator

Mike Crapo
U.S. Senator



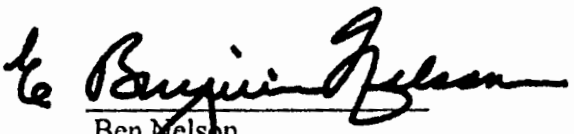
Daniel Inouye
U.S. Senator



Tom Coburn
U.S. Senator

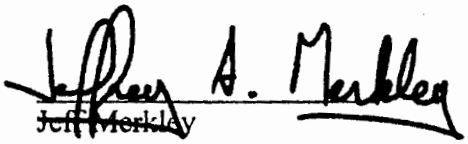
Jim Webb
U.S. Senator

Jeff Sessions
U.S. Senator



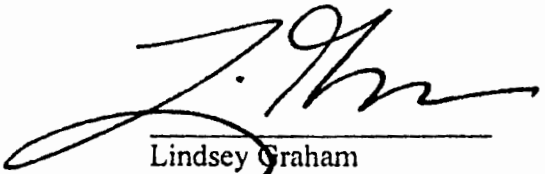
Ben Nelson
U.S. Senator

James Inhofe
U.S. Senator

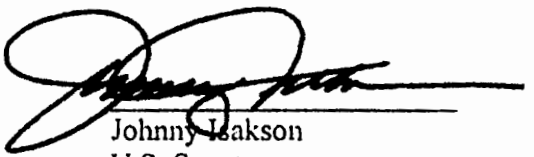


Jeff Merkley
U.S. Senator

Thad Cochran
U.S. Senator



Lindsey Graham
U.S. Senator



Johnny Isakson
U.S. Senator

Herb Kohl
U.S. Senator

John Cornyn
U.S. Senator

David Vitter
U.S. Senator

Kay Bailey Hutchison
U.S. Senator

George LeMieux
U.S. Senator

Scott Brown
U.S. Senator

Kay Hagan
U.S. Senator

cc: Regina McCarthy, Environmental Protection Agency
Robert Perciasepe, Environmental Protection Agency
Cass Sunstein, Office of Management and Budget
Thomas Vilsack, Department of Agriculture
Gary Locke, Department of Commerce
Lawrence Summers, National Economic Council
Jeffery Zients, Acting Director, Office of Management and Budget
Ron Bloom, Department of the Treasury
Nicole Lamb-Hale, Department of Commerce
Melody Barnes, Domestic Policy Council
James Messina, Executive Office of the President
Philip Schiliro, Executive Office of the President
Cecilia Munoz, Executive Office of the President

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 2 8 2010

THE ADMINISTRATOR

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20515

Dear Senator Pryor:

Thank you for your recent letter about the proposed standards for controlling hazardous air emissions from industrial, commercial, and institutional boilers and process heaters ("Boiler NESHAP") and about the proposed standards for commercial and industrial solid waste incinerators ("CISWI Rule"). You raise important concerns, which I take very seriously.

As you know, the rulemakings at issue are not discretionary. In Sections 112 and 129 of the Clean Air Act, Congress directed the U.S. Environmental Protection Agency ("EPA") to establish these standards. EPA issued the proposals after many years of delay, and in order to meet a deadline ultimately set by the U.S. District Court for the District of Columbia.

Many of the facilities in question are located in very close proximity to neighborhoods where large numbers of people live and large numbers of children go to school. EPA estimates that the new standards will cut the facilities' toxic mercury emissions in half and, in the process, reduce their annual emissions of harmful sulfur dioxide and particulate matter by more than 300,000 tons and more than 30,000 tons respectively.

Each year, those reductions in air pollution will avoid an estimated 2,000 to 5,100 premature deaths, 1,400 cases of chronic bronchitis, 35,000 cases of aggravated asthma, and 1.6 million occurrences of acute respiratory symptoms. EPA estimates that Americans will receive five to twelve dollars in health benefits for every dollar spent to meet the standards.

Section 112 of the Clean Air Act directs EPA to calibrate the standards for each subcategory of facility to the emissions control that the best-performing twelve percent of existing facilities in that subcategory are currently achieving. The same section of the statute identifies the types of information that are necessary to justify the establishment of any separate subcategory. In an effort to establish separate subcategories wherever appropriate, and to calculate accurately the standards for each subcategory, EPA asked the affected companies and institutions for technical data about their facilities long before the court-ordered deadline for publishing a proposal. As is often the case in Section 112 rulemaking efforts, however, EPA did not receive many data. While the agency was not left entirely lacking in relevant information, the limited response from affected businesses and institutions did make it difficult for EPA to

delineate subcategories and calculate standards that fully reflected operational reality. The agency nevertheless was legally required to publish proposed subcategories and standards based on the information it had at the time.

Fortunately, a number of potentially affected businesses and institutions responded to EPA's published proposal by giving the agency relevant data that it had not possessed at the time of the proposal. The agency will make exhaustive use of all of the relevant data received during the period for public comment. EPA is now learning things that it did not know before about the particulars of affected sectors and facilities. The final standards will reflect the agency's new learning, and that is how the rulemaking process is supposed to work. In fact, EPA is so committed to ensuring that the final standards will reflect all of the relevant information received during the public comment period that the agency has just sought and obtained from the District Court a one-month postponement, until January 16, 2011, of the deadline for issuing the final Boiler NESHAP. EPA is taking the necessary time to get the final standards right.

Businesses that burn biomass in their boilers and process heaters are particularly worried that the limited information underlying EPA's proposed subcategories and standards might cause many boilers that currently burn renewable biomass to shut down entirely or to convert to burning non-renewable fossil fuels. Please know that EPA is paying particular attention to the subject of biomass-fired boilers and process heaters as the agency works to develop final standards. In your letter, you reference EPA's projection regarding new major-source boilers that burn biomass. That projection, which comes originally from the Energy Information Administration ("EIA"), is not based on the Boiler NESHAP or the CISWI Rule. Neither EPA nor EIA is projecting that these rules will cause anything like the cessation of the domestic biomass industry.

While many businesses are pleased that EPA solicited comment on using Section 112(d)(4) of the Clean Air Act to set a health-based standard (as opposed to a purely technology-based standard) for certain hazardous air pollutants such as hydrogen chloride, those same businesses believe that EPA should have identified the establishment of a health-based standard as the agency's preferred outcome. The discretionary establishment of a health-based standard would need to be based on an adequate factual record justifying it. EPA did not identify a health-based standard as a preferred outcome in the proposal, because the agency did not possess at the time of the proposal a factual record that could justify it.

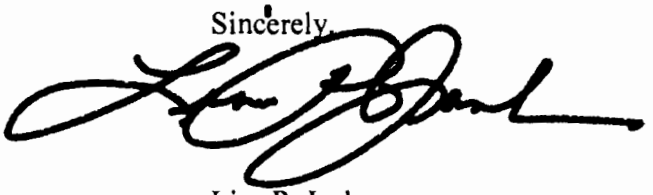
The pollution control equipment that limits emissions of hydrogen chloride also happens to limit emissions of other highly toxic air emissions, including acid gases. Thus, while a health-based standard might be justified for hydrogen chloride in isolation, EPA needs to consider the ramifications of such an alternative for the control of other highly toxic pollutants. With that said, EPA has taken note of the public comments on the establishment of a health-based standard. Several stakeholders commented, for example, that most biomass might contain less acid gas than most fossil fuels, potentially making biomass-fired boilers and process heaters better candidates than fossil fuel-fired ones for a health-based standard. EPA will carefully evaluate the substance and relevance of those comments, as well as any additional data submitted during the public comment period, before making a final decision on the establishment of any health-based standard.

In recent weeks, two industry trade associations issued two separate presentations, each claiming that the Boiler NESHAP and CISWI Rule would cost the U.S. economy jobs. The presentations differ significantly from each other when it comes to the number of jobs that allegedly would be lost. Moreover, the associations' methods for reaching their projections are in several respects opaque and in others clearly flawed. For example, they neglect to count the workers who will be needed to operate and maintain pollution control equipment and to implement work practices that reduce emissions.

Perhaps the most important observation to make about the two associations' claims, however, is that they pertain to a proposal, rather than to a final EPA action. For reasons stated earlier in this reply, the final standards will most assuredly differ from the proposed ones. The differences will demonstrate EPA's intent focus on making the regulatory subcategories appropriately reflect industrial variation in the real world, and on aligning the standards in each subcategory with the performance that real-world conditions prove are already achievable. The Clean Air Act does not place our need to increase employment in conflict with our need to protect public health. EPA's final standards will not either.

Again, thank you for your letter. If you have additional questions, please do not hesitate to contact me, or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,



Lisa P. Jackson

AL-12-000-4630

Congress of the United States

Washington, DC 20515

March 7, 2012

The Honorable Lisa P. Jackson
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

Many Arkansas cotton growers are concerned about controlling the spread of weeds, specifically Palmer amaranth, throughout the Southeast and Mississippi Delta region. We consider it a high priority to increase access to effective tools to combat these weeds.

One such tool is fluridone, an herbicide presently labeled for use in aquatic systems. According to the U.S. Department of Agriculture (USDA), "fluridone was evaluated in the mid-1970s as a potential cotton herbicide and found to be highly efficacious on many cotton weeds, including Palmer amaranth."[1] Due to the costs involved at that time, however, the product was never registered for use on cotton.

It is our understanding that the chemical's primary registrant is willing to pursue a registration for use in cotton. The registration could provide an additional technology to control Palmer amaranth and could possibly reduce the number of applications of other herbicides. However, according to the USDA, "because fluridone is off patent, the registrant, which is a small business, cannot afford to conduct the studies necessary to support a label and build new production facilities that would be necessary without Exclusive Use Data Protection as provided for in FIFRA § 3(c)(1)(F)(i)."

As EPA evaluates any emergency exemption request or registration of fluridone for use on cotton, we encourage the agency to consider the significant investments associated with the data generation and the production of the chemical for use on cotton. By granting Exclusive Use Data Protection for fluridone, EPA will allow the registrant to develop this promising technology and quickly begin testing and manufacturing the chemical, providing for rapid delivery to farmers who would benefit from having an additional tool to control Palmer amaranth.

Thank you very much for your consideration.

Sincerely,

Mark Pryor
Senator

John Boozman
Senator

[1] Letter from USDA Undersecretary Catherine E. Woteki to Administrator Jackson, dated January 5, 2012.

Rick Crawford
Member of Congress

Tim Griffin
Member of Congress

Steve Womack
Member of Congress

Mike Ross
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 10 2012

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Dear Senator Pryor:

Thank you for the March 7, 2012, letter you and your colleagues sent to Environmental Protection Agency Administrator Lisa P. Jackson regarding the potential registration of fluridone for use in cotton weed management. Your letter was forwarded to me for response on behalf of the EPA because my office is responsible for regulating pesticides in the United States.

We are aware of the development of herbicide-resistant weeds across the United States and, specifically, the need to control the *Palmer amaranth* weed in cotton in the Southeast and Mississippi Delta regions. We share your concern about this resistance problem.

As you may be aware, under the Federal Insecticide, Fungicide, and Rodenticide Act, the EPA must ensure that before a pesticide can be registered for sale in the United States, its proposed uses have been evaluated for safety. Only pesticides for which a safety determination can be made are registered. The agency bases these decisions on risk assessments that are derived from data which are submitted by a pesticide's manufacturer.

On March 13, 2012, the agency received an emergency exemption request from the Arkansas State Plant Board for fluridone in cotton weed management to control *Palmer amaranth*. The agency will conduct a thorough review and assessment of the data and evaluate the request in accordance with FIFRA. My staff will advise you of the outcome of this application in the upcoming weeks. With respect to full registration under FIFRA, my staff have held pre-submission discussions with the manufacturer; however, no request for registration has been received at this time.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

James J. Jones
Acting Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 10 2012

The Honorable John Boozman
United States Senate
Washington, D.C. 20510

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Dear Senator Boozman:

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Again, thank you for your letter. If you have further questions, please contact me or your staff may call Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

James J. Jones
Acting Assistant Administrator

AL-09001-0034

UNITED STATES SENATOR-NORTH DAKOTA

KENT CONRAD

530 Hart Senate Office Building
Washington, DC 20510
(202) 224-2043
Fax: (202) 224-7776

DATE: 7-1-09

TO: Brenda

FAX #: 501 1519

FR: Joe McGarvey 224-0839

NUMBER OF PAGES (including cover): 5

COMMENTS:

Attached is a copy of a letter From Sen. Conrad and 24 other senators. Sen. Mark Udall was omitted From the letter - could you please include him in any response EPA may send?

With thanks

Joe McGarvey

United States Senate

WASHINGTON, DC 20510

June 26, 2009

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Arlel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

We understand the EPA is evaluating its regulatory options for the management of coal combustion byproducts ("CCBs") and plans to propose federal management standards for CCBs by the end of the year. This issue involves an important component of the nation's overall energy policy. EPA's decision could affect electricity costs from coal-fired plants, the continued viability of CCB beneficial use practices (which play a significant role in the reduction of greenhouse gases), and the ability of certain power plants to remain in service. It is important, therefore, that the final rule reflect a balanced approach to ensure the cost-effective management of CCBs that is protective of human health and the environment, while also continuing to promote and encourage CCB beneficial use. As explained below, we believe the federal regulation of CCBs pursuant to RCRA's Subtitle D non-hazardous waste authority is the most appropriate option for meeting these important goals.

As part of its evaluation of this issue, EPA has wisely sought input from the States regarding their preferences with respect to the three regulatory options under consideration: (1) federal regulation of CCBs as non-hazardous solid waste under RCRA Subtitle D, (2) regulation as hazardous wastes under RCRA Subtitle C, and (3) a hybrid approach where CCBs would be regulated as hazardous wastes with an exception from hazardous waste regulation for CCBs that are managed in conformance with specified standards.

We understand, thus far, approximately twenty (20) states, in addition to the Association of State and Territorial Solid Waste Management Officials, have responded to EPA's request for input on this issue and every State has taken the position that the best management option for regulating CCBs is pursuant to RCRA Subtitle D. The States effectively argue they have the regulatory infrastructure in place to ensure the safe management of CCBs under a Subtitle D program and, equally important, make clear that regulating CCBs as hazardous waste would be environmentally counter-productive because it would effectively end the beneficial use of CCBs. For the same reasons, the Environmental Council of States ("ECOS") has issued a declaration expressly arguing against the regulation of CCBs as hazardous waste under RCRA.

We respectfully suggest the unanimous position of informed State agencies and associations should not be ignored as EPA evaluates its regulatory options for CCBs. Among other things, the Bevill Amendment to RCRA directs that, as part of its decision-making process for CCBs, EPA will consult with the States "with a view towards avoiding duplication of effort."

RCRA 8002(n). The States have made clear regulating CCBs under RCRA Subtitle C would result in regulatory overkill and effectively end CCB beneficial uses.

The States' position is not surprising since it reflects EPA's own conclusions on four separate occasions that CCBs do not warrant hazardous waste regulation. EPA has issued two formal reports to Congress, in 1988 and 1999, concluding CCBs do not warrant hazardous regulation. Most recently, in 2000, EPA again determined the better approach for regulating CCBs is "to develop national [non-hazardous waste] regulations under subtitle D rather than [hazardous waste regulations under] subtitle C." 65 Fed. Reg. 32214, 32221 (May 22, 2000). In reaching this decision, EPA agreed with the States that "the regulatory infrastructure is generally in place at the state level to ensure adequate management of these wastes" and regulating CCBs as hazardous "would adversely impact [CCB] beneficial use." *Id.* at 32217, 32232.

As we know you appreciate, the impact on CCB beneficial use is another statutory consideration that EPA must consider in evaluating its regulatory options for CCBs. *See* RCRA §8002(n)(8); 65 Fed. Reg. at 32232. Both EPA and the States have recognized that regulating CCBs as hazardous waste would have an adverse impact on CCB beneficial use. As EPA reasoned in selecting the Subtitle D approach in its 2000 regulatory determination, it did not want "to place any unnecessary barriers on the beneficial uses of [CCBs], because they conserve natural resources, reduce disposal costs and reduce the total amount of wastes destined for disposal." *Id.* at 32232.

In addition to promoting increased CCB beneficial use, a Subtitle D approach appears to be protective of human health and the environment, as EPA has already concluded that State programs are in place to effectively regulate CCBs. *Id.* at 32217. A 2006 EPA/DOE report reinforces this conclusion by confirming the recent development of even more robust state controls for CCBs.

In light of the recent ash spill disaster at the Tennessee Valley Authority's Kingston facility, we certainly understand the EPA raising concerns about the handling and storage of CCBs. We believe appropriate precautions should be taken by all responsible operators, that parties who have violated regulations should be held accountable, and the public health and welfare should be protected. However, in light of how states and the EPA have historically approached the regulation of CCBs, we respectfully urge the EPA to work closely with the States in deliberating regulations for the best management of coal combustion byproducts and give thoughtful consideration to developing a performance-based federal program for CCBs under RCRA's Subtitle D non-hazardous waste authority.

Thank you for your consideration of our views.

Sincerely,

Kent Conrad
United States Senate

Sam Brownback
United States Senate

Byron Dorgan
United States Senate

George Voinovich
United States Senate

Orrin G. Hatch
United States Senate

James M. Inhofe
United States Senate

Lamar Alexander
United States Senate

Saxby Chambliss
United States Senate

David Vitter
United States Senate

Claire McCaskill
United States Senate

James E. Risch
United States Senate

Jim Bunning
United States Senate

Mary L. Landrieu
United States Senate

Barbara A. Mikulski
United States Senate

Evan Bayh
United States Senate

Michael B. Enzi
United States Senate

Bob Corker
United States Senate

John Thune
United States Senate

Thad Cochran
United States Senate

John Barrasso
United States Senate

Christopher S. Bond
United States Senate

Blanche L. Lincoln
United States Senate

Mark L. Pryor
United States Senate

Johnny Isakson
United States Senate

Amy Klobuchar
United States Senate

Senator Mark Udall's signature omitted from original letter - please include Sen. M. Udall in any response

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 3 0 2009

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Mark L. Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of June 26, 2009, expressing your interest in the U.S. Environmental Protection Agency's (EPA) pending rulemaking governing the management of coal combustion residuals (CCR). In your letter, you urged the agency to work closely with the states as we consider options to safely manage CCR.

EPA intends to issue a proposal before the end of this calendar year. EPA has been meeting with state associations to understand their member's perspectives, and to generally share the options under consideration by EPA. We will include your letter, as well as those EPA has received from the states, in the docket for the rulemaking.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Amy Hayden, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0555.

Sincerely,

Mathy Stanislaus
Assistant Administrator

AA-12-000-0088

Congress of the United States
Washington, DC 20515

December 19, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator Jackson:

We write in regard to funding provided by Congress to the City of Warren, Arkansas in Fiscal Years (FY) 2009 and 2010. This funding was congressionally directed for water and sewer infrastructure improvements through the Environmental Protection Agency's (EPA) State and Tribal Assistance Grant (STAG) account.

We appreciate the EPA's recent efforts to expedite the award of this grant, and request that the agency continue to make every effort to officially award this funding as soon as possible. Please allow this letter to serve as our request to waive the five-day congressional courtesy notification period. In doing so, our goal is to expedite the approval and award of this funding.

As you are aware, water and sewer projects are vitally important to communities around the country. These projects create jobs, invest in our nation's infrastructure and improve the quality of life for those in the community. We support this important project in Warren and will continue to work to assist in its completion.

We appreciate the EPA's efforts to keep us fully informed of activity regarding this project and ask that those efforts continue. We look forward to hearing from you and appreciate your time and attention to this matter.

Sincerely,

Senator Mark Pryor

Senator John Boozman

Congressman Mike Ross

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 27 2012

OFFICE OF WATER

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of December 19, 2011, to Lisa Jackson, Administrator of the U.S. Environmental Protection Agency (EPA), regarding the pending Special Appropriations Act Project (SAAP) grant for Warren, Arkansas. In the letter you and your colleagues request that EPA waive the five-day Congressional courtesy notification period in order to expedite the award.

The fiscal year 2009 and 2010 funds for Warren, Arkansas are awarded in full. The grant agreement was received and accepted by the City on December 28, 2011.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Greg Spraul, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0255.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

AL-08-000-3370

United States Senate

WASHINGTON, DC 20510

March 3, 2008

Stephen L. Johnson
U.S. Environmental Protection Agency
Administrator
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Mr. Johnson:

We are writing to express our concern regarding the proposed revisions to the National Ambient Air Quality Standard (NAAQS) for ozone. On July 11, 2007, EPA issued a proposal to revise the NAAQS for ozone from an allowable eight hour ozone measurement primary standard of .08 ppm to between 0.070 and 0.075 ppm. We understand a final rule is expected by March 12, 2008.

Arkansas supports an ozone standard that protects human health and the environment. We are proud of our progress in improving air quality. There is only one county in Arkansas, Crittenden County, that is in non-attainment under the current rule. EPA's data shows a nationwide decrease in ozone concentration of 21 percent since 1980. Clearly, the ozone standards are working.

Like other states, Arkansas is just beginning to apply its State Implementation Plan (SIP) required under the Clean Air Act to meet current air quality standards. Under the proposed 2007 standard, EPA may designate up to 14 Arkansas counties as non-attainment areas. These would include Crittenden, Boone, Cleveland, Faulkner, Grant, Jefferson, Lincoln, Lonoke, Montgomery, Newton, Perry, Polk, Pulaski, Saline, and White counties. In order to meet the requirements of the Clean Air Act, Arkansas would be required to submit to EPA its preliminary designation recommendations before we know whether the current SIP is working.

We trust that EPA will recommend an ozone standard based on sound scientific evidence that provides the requisite human health and environmental protection. In making this decision, we request that EPA consider that Arkansas, and other states, are just beginning to implement their SIPs and that the states be given an opportunity to demonstrate that they can reduce ozone concentrations to safe levels before federal sanctions are imposed.

Thank you for your consideration, and we look forward to your prompt response. If you have questions, please contact us or Todd Wooten (Senator Lincoln) at 202-224-7499 or Stephen Lehrman (Senator Pryor) at 202-228-3063.

Sincerely,

Senator Blanche Lincoln

Senator Mark Pryor

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 10 2008

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter dated March 3, 2008, co-signed by Senator Lincoln, to Administrator Johnson regarding the U.S. Environmental Protection Agency's (EPA) proposal to revise the National Ambient Air Quality Standards (NAAQS) for ozone. In your letter, you request that EPA consider that Arkansas, and other states, are just beginning to implement the 1997 ozone NAAQS.

On March 12, 2008, EPA significantly strengthened the primary and secondary ozone NAAQS to a level of 0.075 parts per million. These revised NAAQS will lead to improved air quality in urban and rural areas throughout the United States, providing increased protection for public health and sensitive trees and plants. EPA selected the levels for the final standards after completing an extensive review of thousands of scientific studies on the impacts of ground-level ozone on health and the environment. In making his decision on the standard, under the Clean Air Act (CAA), the Administrator is precluded from considering implementation-related issues and must focus exclusively on establishing standards that are requisite to protect public health with an ample margin of safety.

Once a new standard is established, the CAA sets forth a process and schedule for implementation of new or revised NAAQS. Within two years from promulgation of the 2008 ozone NAAQS (by March 12, 2010), EPA is required to designate areas of each state as attainment, unclassifiable, or nonattainment for the 2008 ozone NAAQS. For an area EPA designates as nonattainment, the CAA provides from 3 to 20 years for the area to attain the standard. EPA will consider how best to ensure that public health and welfare are protected in the transition from the previous standard to the new standard. We will also be sensitive to the practical aspects of planning for and attaining a new NAAQS, within the discretion provided by the CAA.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Frantz, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-3668.

Sincerely,

Robert J. Meyers
Principal Deputy Assistant Administrator

AL-08-000-5572

MARK PRYOR
ARKANSAS
COMMITTEES:
ARMED SERVICES
COMMERCE, SCIENCE, AND TRANSPORTATION
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
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United States Senate

WASHINGTON, DC 20510

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http://pryor.senate.gov

April 16, 2008

Ms. Stephanie Daigle
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avemie
Washington, District of Columbia 20460

Dear Ms. Daigle:

I write to you on behalf of my constituent, Mr. Don Bice, who has contacted my office concerning the proposed Clean Environoment Solid Waste Processing, Inc.'s pilot program to clean up landfills in the country.

Enclosed please a copy of the letter from Mr. Bice which has been forwarded to my Arkansas Office regarding this matter. I would be most grateful if you would extend all possible favorable consideration to this request.

Again, thank you for your time and your cooperation. If you have any questions, or need any additional information, please feel free to contact Joan Vehik at 501-324-6336. I look forward to hearing from you in the near future.

Sincerely,

Mark Pryor

MP\sj
Enclosure

(Proposed) Clean Environment
Solid Waste Processing
Inc.

March 20, 2008

Senator Mark Pryor
River Market, 500
President Clinton Ave. Suite 401
Little Rock, AR 72201

Dear Senator Pryor

Reference your "Arkansas First Letter, Winter 2008." Enclosed please find a letter to the EPA, Washington DC, with copies to almost everyone. Obviously, we would greatly appreciate anything you can do to help us get approval and funding for a pilot program to start cleaning up our landfills, while getting established compost farms to handle present streams of solid waste.

Sincerely

Don L. Bice

Don L. Bice
Executive Officer
139 Rorie St.
Batesville, AR 72501
870 251 2714
E: don.bice@suddenlink.net

2009 MAR 25 PM

(Proposed)
Clean Environment
Solid Waste Processing
Inc.

March 20, 2008

Director
U.S. EPA
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington DC 20460

Our group is in the process of establishing a corporation as an alternative to, or as a substitute for use of landfills for solid waste. We have searched various alternatives and have tentatively decided upon the X-Act Systems Composter, Ontario, Canada, as the best solution. This system has little to no emissions, no odors, little noise, and no leaching into the topsoil and ground water. The one we have tentatively selected for Independence County, Arkansas, consists of ten rotating drums, on a 112 foot slab. It rotates ten times per hour, and the temperature is maintained at 135-140 degrees F., the optimum temperature for rapid bacterial growth, which are later allowed to die and the gases run through a bio-filter to prevent odors. The system will turn biodegradables into various degrees of compost and potting soil, which may be used to replenish topsoil by farmers, developers, landscapers, and on highway rite of ways. Raw composting takes four to five days. Our topsoil is being depleted at a rate of one millimeter per year and is being replenished at .02 per year.

We hope, if possible, to expand rapidly, reducing use of landfills, and eventually replacing them. We are, also, considering the Plasma Gasification System, which, operating at higher temperatures than the surface of the sun, will return material to their basic atomic elements. It will create a gas, carbon and carbon monoxide, which will drive generators producing electricity to be input into the electric grid. Due to the cost, we would contract for this system.
Either system will destroy toxins and antibiotics and kill pathogens. According to your literature, there are some 866 landfills, 86% of which are leaching antibiotics and pathogens, as well as toxins into the soil and ground water. Scientists have found, reference Discover Magazine, January 2008, page 58, that due to overuse of antibiotics, DNA of soil and water bacteria may be altered, creating "super bugs," rapidly overcoming our treatment arsenal. These agents need to be removed from dead animals as well as animal and human waste. Present municipal waste treatment procedures, in almost every instance, will not kill the antibiotics. The sludge should be dried, pelletized and run through the composter or gasification plants.

In view of existing technology, landfills are simply not the answer! We plan to process as much as possible of the solid waste presently going to landfills, and we plan to expand as resources permit. However, this does not solve the present landfill problem

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 2 2 2008

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Mark Pryor
United States Senator
500 President Clinton Avenue
Suite 401
Little Rock, Arkansas 72201

Dear Senator Pryor:

Thank you for your letter of April 16, 2008, concerning the proposed Clean Environment Solid Waste Processing, Inc. pilot program to clean up landfills as explained by your constituent, Mr. Don Bice. Mr. Bice discussed the use of the X-Act Systems Composter and the potential use of the Plasma Gasification System as alternatives to the use of landfills.

The U.S. Environmental Protection Agency (EPA) has a waste management hierarchy that includes source reduction, recycling (which includes composting), waste combustion with energy recovery, and lastly landfilling and waste combustion without energy recovery. EPA's Municipal Solid Waste Assistance Program provides limited funding to help solve municipal solid waste generation and management problems at the local, regional, and national levels. Project activities eligible for funding include training, public education programs, studies, and demonstrations. However, funding under this program is restricted to non-profit organizations or state, local, and tribal governments.

The Small Business Administration (SBA) administers two federal funding programs: the 504 Certified Development Company Loan Program and the Loan Guarantee Program. These programs provide long-term, fixed asset financing to small businesses which meet certain requirements. Information on the SBA's programs can be viewed at *http://www.sba.gov/services/financialassistance/index.html*. Mr. Bice may call the Small Business Answer Desk at 1-800-U-ASK-SBA to identify the nearest SBA office. In addition, he may want to consult the Arkansas Department of Environmental Quality's website for assistance at *http://www.adeq.state.ar.us/solwaste/default.htm*. Finally, he may want to refer to EPA's website for additional funding opportunities at *http://www.epa.gov/ogd/grants/funding_opportunities.htm*.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Amy Hayden, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0555.

Sincerely,

Susan Parker Bodine
Assistant Administrator

AL-09-001-9723

MARK PRYOR
ARKANSAS
COMMITTEES:
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COMMERCE, SCIENCE, AND TRANSPORTATION
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
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December 16, 2009

Ms. Gina McCarthy
Assistant Administrator
Environmental Protection Agency
Office Of Air And Radiation
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

RE: EPA-0AR-OTAW-09-12

Dear Ms. McCarthy:

I am pleased to write in support of the City of Dumas, Arkansas, for funding from the Environmental Protection Agency's National Clean Diesel Funding Assistance Program.

The City of Dumas will use proceeds from this grant to create a demonstration project by Highland Hybrid to enhance fuel economy and reduce the carbon footprint emissions for over-the-road (OTR) commercial fleets. This project is expected to expand employment opportunities within the City of Dumas, increase the City's tax base and reduce the overall community poverty level.

This is an important project that is certainly worthy of funding. It is my hope that the Environmental Protection Agency will give positive consideration of the City of Dumas' application. If I can provide further information, please contact Susie James in my Arkansas Office. She can be reached at (501) 324-6336.

Thank you for your attention to this matter.

Sincerely,

Mark Pryor

Mark Pryor

MLP/sj

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 2 2 2010

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your December 16, 2009 letter in support of an application for federal grant assistance for the City of Dumas, Arkansas' diesel emissions reduction project.

The request for applications for our recent National Clean Diesel Funding Assistance Program competition closed on December 8, 2009. The U.S. Environmental Protection Agency (EPA) received the City of Dumas, Arkansas' application before the deadline, and it is therefore eligible to be considered for funding. EPA received 27 applications in response to the competition in EPA's Region 6 (which includes Arkansas). These applications requested funding totaling approximately $31 million. EPA is presently evaluating all grant applications and plans to announce the winners of the competition in the next few months.

EPA appreciates your interest in, and support of, the National Clean Diesel Campaign. The support and interest from members of Congress, as well as industry and corporate partners, educators, environmental groups, public health officials, and other community leaders who are committed to protecting our nation's health and modernizing America's in-use diesel fleet is important. This program allows us to work together to achieve the overall goal of reducing the public's exposure to air pollution from the existing fleet of diesel engines.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at 202-564-2806.

Sincerely,

Gina McCarthy
Assistant Administrator

AL-01-000-2983

United States Senate

WASHINGTON, DC 20510

February 6, 2007

The Honorable Stephen L. Johnson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N. W., 1102A
Washington, D.C. 20460

Dear Administrator Johnson:

We are writing to urge you to utilize the Environmental Programs and Management funding provided under the Fiscal Year 2007 Continuing Resolution to support the National Rural Water Association's grassroots technical assistance initiative.

As you know, the National Rural Water Association's technical assistance initiative plays a critical role in providing safe and clean water sources for small rural communities in Arkansas and elsewhere across the country. Due to limited technical and financial resources within small rural communities, the National Rural Water Association's assistance is often the only means for these communities to protect drinking water quality and comply with federal mandates set out in the Safe Drinking Water Act, Clean Water Act, and other federal laws. We urgently request that you provide the necessary funding to allow the local field staff in Arkansas to continue carrying out this important program.

We appreciate your serious consideration of our concern that not adequately funding this initiative could lead to an inability for small communities to supply clean and safe drinking water to those living in rural areas. If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

Blanche L. Lincoln

Blanche L. Lincoln

Mark Pryor

Mark Pryor

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR - 2 2007

OFFICE OF
WATER

The Honorable Mark Pryor
United States Senate
Washington, DC 20510

Dear Senator Pryor:

Thank you for your letter of February 6, 2007, to Stephen L. Johnson, Administrator of the Environmental Protection Agency (EPA), expressing your support for provision of funding to the National Rural Water Association (NRWA) from discretionary money that may be available to the Agency in the final Fiscal Year 2007 budget. I have been asked to respond to your letter on behalf of the Administrator. EPA agrees with you that it is critical to provide training and technical assistance to small drinking water systems to ensure that they are able to comply with standards under the Safe Drinking Water Act.

As you know, the NRWA receives financial assistance through Congressionally-directed funding in EPA's appropriations bills. EPA is reviewing the final appropriations language and will evaluate funding options in light of mandatory fixed costs and other priorities.

Irrespective of our final decision on funding for NRWA, I want to assure you that EPA will continue to support small systems through our other activities. The Agency supports training and develops targeted tools to help support small system implementation of regulatory requirements. States can also use funding from their Drinking Water State Revolving Fund (DWSRF) grants to support small systems. In addition to the $14 million expended in FY 2006 for technical assistance to small systems, states also expended an additional $38 million for other set-aside activities that primarily benefit small systems.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Steven Kinberg, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-5037.

Sincerely,

Benjamin H. Grumbles
Assistant Administrator

AL-11-000-0857

MARK PRYOR
ARKANSAS
COMMITTEES:
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January 12, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

I write to commend the Environmental Protection Agency's (EPA) decision to grant a petition submitted by Tokusen USA, Inc. to exclude from the list of hazardous wastes the wastewater treatment plant (WWTP) sludge filter cakes generated from Tokusen's facility in Conway, Arkansas. After careful analysis and use of the Delisting Risk Assessment Software, EPA has concluded the petition waste is not hazardous waste under the Resource Conservation and Recovery Act RCRA when it is disposed in a Subtitle D landfill.

EPA's decision will allow Tokusen to dispose of the WWTP sludge filter cakes as non-hazardous waste provided that Verification Testing of samples submitted over two quarters do not exceed the levels set by EPA. According to the Verification Testing requirements, Tokusen submitted initial samples on October 7, 2010 to EPA and the Arkansas Department of Environmental Quality (ADEQ). Both EPA and ADEQ responded that the samples met delisting limits. Also as required, Tokusen conducted subsequent sampling for the 3rd Quarter (September 23 & 26) and 4th Quarter (November 10 & 18), which was to be submitted to EPA and ADEQ in the first week of January 2011. Tokusen will be allowed to resume normal business operation once EPA and ADEQ give their final approval for these samples.

I thank EPA for cooperating with Tokusen and ADEQ to resolve this problem to everyone's satisfaction.

Sincerely,

Mark Pryor

Mark Pryor

AL-11-000-4658

MARK PRYOR
ARKANSAS
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March 8, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Dear Administrator Jackson,

As you know, every penny the government spends is being scrutinized for potential savings as we seek to reduce our bloated budget and budget deficit. We can begin by eliminating inefficient, duplicative or outdated programs.

In a report released last week, the Government Accountability Office provided Congress with 81 areas of potential savings as a result of duplicative programs. As a member of the Senate Appropriations Committee and Senate Homeland Security and Governmental Affairs Committee, I am prepared to turn many of their findings into cost-savings.

I would appreciate hearing from you whether you agree with the report's findings concerning the Environmental Protection Agency and the actions your agency has or plans to take in the short- and long-term as a result of the report to achieve cost-savings. If you are aware of duplicative or unnecessary programs within your agency that the GAO did not cite, please include a plan of action to eliminate those programs as well.

For your reference, the report, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars and Enhance Revenue*, addressed the following regarding the EPA:

- Fragmented federal efforts to meet water needs in the U.S.-Mexico border region.
- Duplicative federal efforts directed at increasing domestic ethanol production.

I would appreciate a response no later than March 21, 2011. If you have any questions, please contact Stephen Lehrman at 202-224-2353.

Sincerely,

Mark Pryor

Mark Pryor

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 2 0 2011

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of March 8, 2011, to Lisa Jackson, Administrator of the U.S. Environmental Protection Agency (EPA) requesting EPA's reaction to the findings in the Government Accountability Office's (GAO) recent report, *Opportunities to Reduce Potential Duplications in Government Programs, Save Tax Dollars, and Enhance Revenue.* This report identified two areas associated with EPA: (1) federal efforts to meet water infrastructure needs in the U.S.-Mexico border region, and (2) federal efforts directed at increasing domestic ethanol production.

We have reviewed the report and evaluated the findings in both areas. Our current approach in the U.S.-Mexico Border Water Infrastructure Program addresses the issues raised by GAO. We intend to continue coordinating actively with our federal partners and utilizing the existing risk-based prioritization process to ensure EPA resources are utilized as effectively as possible to protect public health and water quality in the border region. There were no recommendations for EPA to consider related to increasing domestic ethanol production. Additional details are presented below.

U.S.-Mexico Border Water Infrastructure Program:

The 2009 GAO report, which the recent report used as a source, did not conclude that there were duplicative efforts across the federal government to meet water needs in the U.S.-Mexico border region. The 2011 GAO report acknowledges that their suggestions will not result in significant cost savings for the federal government.

Amongst all of the programs described in the GAO report, EPA's U.S. Mexico Border Water Infrastructure Program is unique for a number of reasons: (1) it is the funding of last resort. That is, EPA requires that projects demonstrate that all other available funding (e.g., Clean Water or Drinking Water State Revolving Fund load programs, other federal loans and grants, and Mexican match funding) has been exhausted before EPA grant funding is used to complete a financing package; (2) most funded projects provide first time access to drinking water and/or wastewater services; (3) the program is focused on underserved and poor

communities. Grant funds made available through this program make it possible to construct drinking water and wastewater projects that otherwise would not be financially feasible. EPA has funded 93 projects with $565 million, serving nearly 8.5 million border residents. The total costs of those projects amounts to $1.7 billion as a result of EPA grants leveraging over $1.1 billion from other sources to finance the projects.

The GAO report suggests establishing a new interagency mechanism or process to conduct a comprehensive needs assessment to improve the effectiveness of the federal agencies active in the border area. It is important to note that EPA already has existing procedures which largely address suggestions. EPA, in coordination with federal, state, and local funding partners, uses a risk-based prioritization process to fund border water infrastructure projects that will have the greatest public health and environmental benefits, and ensures that project funding is not duplicative. To ensure that our efforts are complementary, EPA attends quarterly meetings with federal, state, and local funding partners and plans on continuing to coordinate at a local, national, and binational level as we support the important public health and environmental needs along the Border.

Federal Efforts Directed at Increasing Domestic Ethanol Production:

The GAO identified the Volumetric Ethanol Excise Tax Credit (VEETC) as being potentially duplicative of the production incentive provided by the Renewable Fuels Standard and suggested that the tax credit might be allowed to expire at the end of 2011, thereby saving $5-7 billion a year in foregone revenue. EPA has not conducted any analysis on the impacts of the tax credit on the fuels system and cannot speak to the recommendations made in the GAO report with respect to changes to the ethanol tax credit. The GAO made no recommendations on the EPA Renewable Fuels Standard program.

You also asked for information on any EPA programs that we considered duplicative or unnecessary not cited by GAO and our plan of action for eliminating those programs. Our annual budget submissions reflect our ongoing efforts to manage our appropriated resources wisely. We have sought, and will continue to look for, areas where programs can be leveraged, realigned, or made more efficient and effective as an integral part of our annual budget formulation process.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at 202-564-0260.

Sincerely,

Barbara J. Bennett
Chief Financial Officer

HL-11-000-2630

United States Senate

WASHINGTON, DC 20510

February 15, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

As the 112th United States Congress commences, we write to share with you our continuing concern with the potential regulation of farm and rural dusts through your review of the National Ambient Air Quality Standards (NAAQS) for coarse particulate matter (PM10), or "dust." Proposals to lower the standard may not be significantly burdensome in urban areas, but will likely have significant effects on businesses and families in rural areas, many of which have a tough time meeting current standards.

Naturally occurring dust is a fact of life in rural America, and the creation of dust is unavoidable for the agriculture industry. Indeed, with the need to further increase food production to meet world food demands, regulations that will stifle the U.S. agriculture industry could result in the loss of productivity, an increase in food prices, and further stress our nation's rural economy.

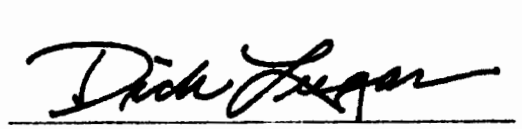
Tilling soil, even through reduced tillage practices, often creates dust as farmers work to seed our nation's roughly 400 million acres of cropland. Likewise, harvesting crops with various farm equipment and preparing them for storage also creates dust.

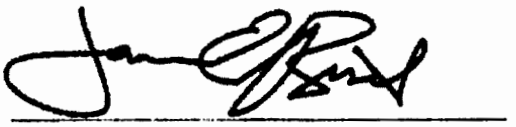
Due to financial and other considerations, many roads in rural America are not paved, and dust is created when they are traversed by cars, trucks, tractors, and other vehicles. To potentially require local and county governments to pave or treat these roads to prevent dust creation could be tremendously burdensome for already cash-strapped budgets.

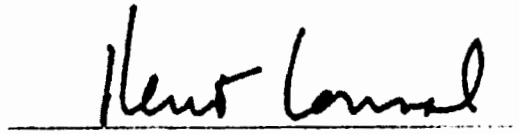
While we strongly support efforts to safeguard the wellbeing of Americans, most Americans would agree that common sense dictates that the federal government should not regulate dust creation in farm fields and on rural roads. Additionally, the scientific and technical evidence seems to agree. Given the ubiquitous nature of dust in agricultural settings and many rural environments, and the near impossible task of mitigating dust in most settings, we are hopeful that the EPA will give special consideration to the realities of farm and rural environments, including retaining the current standard.

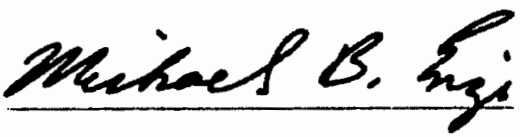
Thank you for your consideration of this important matter.

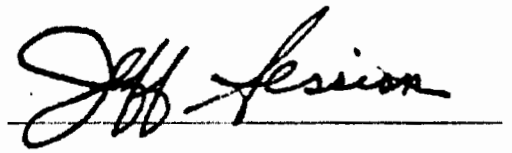
Sincerely,

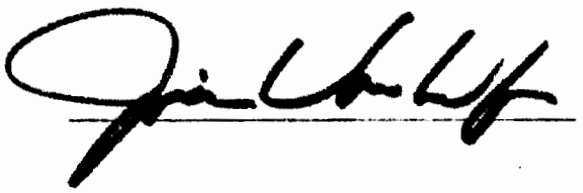


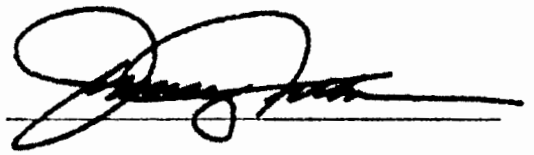


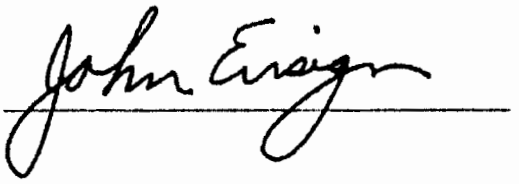


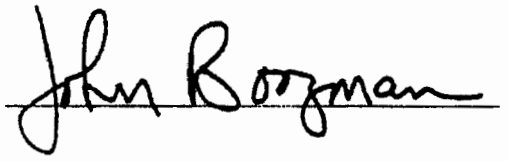


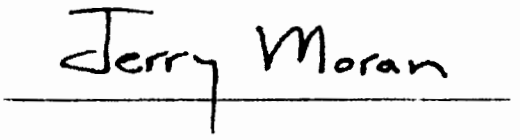


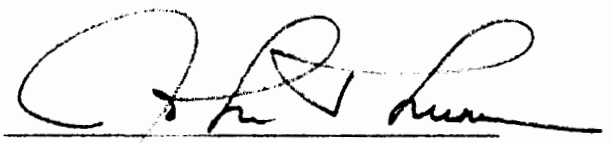


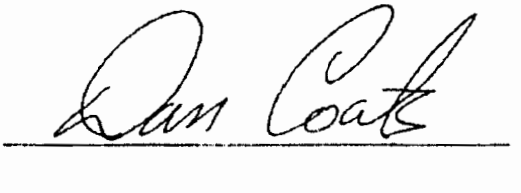


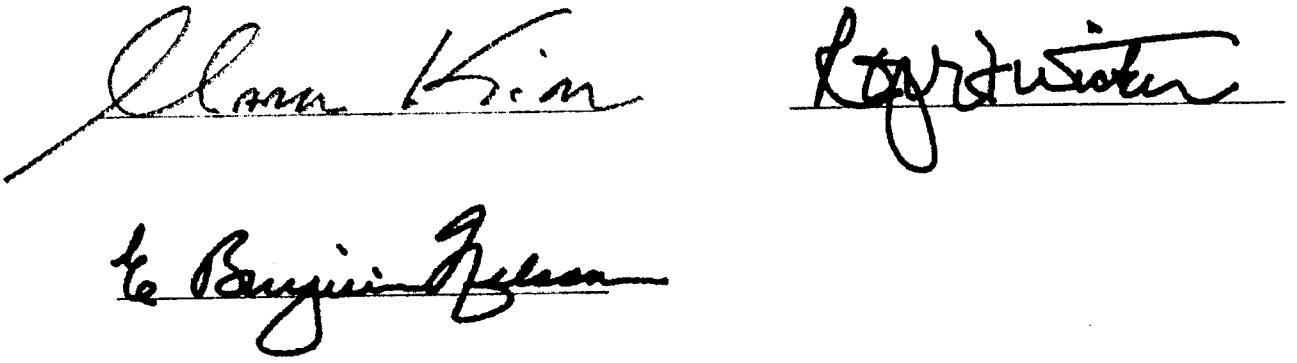












UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 14 2011

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of February 15, 2011, co-signed by 32 of your colleagues, expressing your concerns over the ongoing review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The Administrator asked that I respond to your letter.

I appreciate the importance of NAAQS decisions to state and local governments, in particular to areas with agricultural communities, and I respect your perspectives and opinions. I also recognize the work that states have undertaken to improve air quality across the country. The NAAQS are set to protect public health from outdoor air pollution, and are not focused on any specific category of sources or any particular activity (including activities related to agriculture or rural roads). The NAAQS are based on consideration of the scientific evidence and technical information regarding health and welfare effects of the pollutants for which they are set.

No final decisions have been made on revising the PM NAAQS. In fact, we have not yet released a formal proposal. Currently, we continue to develop options, including the option of retaining the current 24-hour coarse PM standard. To facilitate a better understanding of the potential impacts of PM NAAQS standards on agricultural and rural communities, EPA recently held six roundtable discussions around the country. This is all part of the open and transparent rulemaking process that provides Americans with many opportunities to offer their comments and thoughts. Your comments will be fully considered as we proceed with our deliberations.

Under the Clean Air Act, decisions regarding the NAAQS must be based solely on an evaluation of the scientific evidence as it pertains to health and environmental effects. Thus, the Agency is prohibited from considering costs in setting the NAAQS. But cost can be - and is - considered in developing the control strategies to meet the standards (i.e., during the implementation phase). Furthermore, I want to assure you that EPA does appreciate the importance of the decisions on the PM NAAQS to agricultural communities. We remain committed to common sense approaches to improving air quality across the country without placing undue burden on agricultural and rural communities.

Again, the Administrator and I thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

Gina McCarthy
Assistant Administrator

AL-11-001-1614

MARK PRYOR
ARKANSAS
COMMITTEES:
APPROPRIATIONS
COMMERCE, SCIENCE, AND TRANSPORTATION
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SMALL BUSINESS AND ENTREPRENEURSHIP
RULES AND ADMINISTRATION
SELECT COMMITTEE ON ETHICS

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EXTERNAL AFFAIRS DIVISION

United States Senate

WASHINGTON, DC 20510

255 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-2353

500 PRESIDENT CLINTON AVENUE
SUITE 401
LITTLE ROCK, AR 72201
(501) 324-6336
TOLL FREE: (877) 259-8602
http://pryor.senate.gov

July 11, 2011

6RA email ..... 6EN .....
6DRA email ... 6WQ .....
6MD ..... 6SF .....
6OEJ ..... 6RC .....
6PD original 6XA email .....

Lawanda Thomas
Congressional/ State Legislative Liaison
Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

Dear Lawanda,

I write to you on behalf of my constituent, Mr. Exp. C, who has contacted me concerning a waiver. Enclosed please find documentation which has been forwarded to me by Mr. Exp. C

I would appreciate it if you would review the enclosed documentation and provide me with any information that might prove helpful to my constituent, in accordance with current regulations. Please direct your response to Russell Hall, who can be reached in my Arkansas Office.

Thank you for your attention to this matter, and I look forward to hearing from you in the near future.

Sincerely,

Mark Pryor

Mark Pryor

MLP/rh

6/30/11

Dear Senator Pryor,

My name is ... Exp.6 ... and I live in Lafayette County. On my own dime, I have developed a process that can fuel my RV via hydrogen gas. I've been working on this since the mid 1980s. However, I can't proceed with my research and development due to regulations by EPA that would restrict testing on public highways. I am asking for an exemption from the EPA to drive my RV, using this process, on public highways.

Sincerely.
Exp.6

Exp.6

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG - 5 2011

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senator
500 President Clinton Avenue
Suite 401
Little Rock, Arkansas 72201

Attention: Mr. Russell Hall

Dear Senator Pryor:

Thank you for your July 11, 2011, letter to the Environmental Protection Agency on behalf of your constituent Mr. [redacted]. Mr. [redacted] is looking for an exemption to conduct testing on a process he has developed for fueling his recreational vehicle with hydrogen. Section 203(b)(1) of the Clean Air Act (Act) provides that the Administrator may grant exemptions for the purposes of research, investigations, studies, demonstrations, or training, or for reasons of national security.

In order to obtain an exemption, a written request must be submitted to the EPA that contains detailed information such as the purpose of the testing, the duration of the testing and other specifics the EPA needs to determine the appropriateness of granting a testing exemption. Enclosed is a document that describes the process for applying for the exemption, including the specific information that needs to be provided and where to send the information. Upon receipt of a complete application, the EPA will review the information provided and issue an approval or denial accordingly. Should Mr. [redacted] choose to apply for an exemption, we will work directly with him to answer any questions he may have as he goes through the process.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

J + G. McC, for

Gina McCarthy
Assistant Administrator

Enclosure

Instructions for Applying for a Testing Exemption from Section 203(a)(3) of The Clean Air Act

Section 203(b)(1 of the Clean Air Act (Act) provides that the Administrator may grant exemptions from the prohibitions of section 203(a) of the Act including tampering prohibitions of section 203(a)(3)(A) and (8) 'for the purposes of research, investigations, studies, demonstrations, or training, or for reasons of national security. The original testing exemption regulations, 40 CFR section 85.1701 et seq., entitled "Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines" were finalized on September 10, 1974at 39 Federal Register 32609. As initially promulgated, an exemption was available only to automobile manufacturers. Section 203(a)(3)(A) of the Act, as amended, prohibits any person from removing or rendering inoperative any emissions control device or element of design installed on or in a motor vehicle or motor vehicle engine prior to its sale and delivery to an ultimate purchaser. It further prohibits any person from knowingly removing or rendering inoperative any such device or element of design after such sale and delivery. The maximum civil penalty for a violation of this section for manufacturers and dealers is $ 32,500 and $2,500 for any other person.

The 1990 Amendments of the Act broadened the existing tampering prohibitions concerning in-use vehicles by amending section 203(a)(3)(B) to prohibit all persons from manufacturing, selling, offering to sell or installing any part where a principal effect is to bypass, defeat, or render inoperative any emission control device or element of design installed on or in a motor vehicle or motor vehicle engine and where the person knows or should know that such part is being offered for sale or installed for such use. The maximum civil penalty for a violation of this section is $2,500.

Federal law now prohibits the removal or rendering inoperative of emission control devices or elements of design by the vehicle owner. The Federal law is applicable to all motor vehicles and motor vehicle engines required to meet emission standards under the Clean Air Act since 1968.

In response to the 1977 Amendments, EPA amended the September 10, 1974 regulations in order to change the eligibility requirements of the testing exemption regulations to allow ANY PERSON to request an exemption. These amendments were promulgated on March 3, 1980 at 45 Federal Register 13733. The 1990 Amendments do not necessitate any further amendments to the regulations.

Any person requesting a testing exemption pursuant to these regulations must submit a letter to EPA which provides the following information:

1. A concise statement of purpose which shows that the proposed test program has an appropriate basis; research, investigations, studies, demonstrations or training.
2. That the proposed test program necessitates the granting of an exemption. That is, that the stated purpose cannot be achieved without performing or causing to be performed one or more of the prohibited acts under section 203(a) of the Act.
3. That the proposed test program exhibits reasonableness in its scope. The program must have a duration of reasonable length and affect a reasonable number of vehicle or engines. Required items of information include: (a) an estimate of the program duration; (b) the number of vehicles or engines involved; and (c) year and gross vehicle weight rating of each vehicle or engine.
4. That the proposed test program exhibits a degree of control consistent with the purpose of the program and EPA's monitoring requirements. As a minimum, required items of information include: (a) the technical nature of the test; (b) the site of the test; (c) the time or mileage duration of the test; (d) the ownership arrangement with regard to the vehicles or engines involved in the test; (e) the intended final disposition of the vehicles or engines; (f) the manner in

which vehicle identification numbers or the engine serial numbers will be identified, recorded, and made available; and (9) the means or procedure whereby test results will be recorded.

*** You must also include the current location of the vehicle(s)/engine(s) at the time of the exemption request, also you will need to include Year, Make, Model, VIN or Serial Number of the vehicle or engine.**

If upon review, EPA decides that the granting of an exemption is appropriate, a memorandum of exemption will be sent to the applicant. The memorandum will set forth the basis for the exemption, and its scope, and such terms and conditions as are deemed necessary. Such terms and conditions will generally include, but are not limited to, agreements by the e applicant to conduct the exempt activity in the manner described to EPA, create and maintain adequate records accessible to EPA at reasonable times, to employ labels for the exempt engines or vehicles setting forth the nature of the exemption, to take appropriate measures to assure the terms of the exemption are met and to advise EPA of the termination of the activity and the ultimate disposition of the vehicles or engines. At the end of the test program the applicant must regain physical possession of the vehicles or engines and either remove them from commerce by storing or scrapping or return them to a certified configuration.

Any exemption granted pursuant to these regulations shall be deemed to cover any subject vehicle or engine only to the extent that the specified terms and conditions are complied with. A breach of any term or condition shall cause the exemption to be void ab initio with respect to any vehicle or engine.

Requests for exemptions or further information concerning exemptions and/or the exemption request review procedure should be addressed to:

Attn: David C. Hurlin
Environmental Protection Agency
Compliance & Innovative Strategies Division
Light Duty Vehicle Group
2000 Traverwood Drive
Ann Arbor, MI 48105
Phone: (734) 214-4098
Fax: (734) 214-4676
Email: Imports@epa.gov
Managed by EG&G Technical Services

Testing

The vehicle or engine is being imported for testing purposes involving research, investigations, studies, demonstrations or training. The vehicle or engine may be operated on public roads provided such operation is an integral part of the test program. Anyone may import a vehicle for testing purposes; however, EPA requires a Customs bond.

The importer carries the burden of proving that the proposed test program constitutes an appropriate basis for an exemption, and must satisfy all the requirement# of 40 CFR 85.1705.

Requirements

Importer must file with U.S. Customs, upon entry, an EPA Form 3520-1 declaring code "I"

Importer must post a bond with U.S. Customs.

Restrictions

Vehicle may not be driven on public roads and highways in the U.S. except as an integral part of the test program as described.

AL-11-001-9986

Jeff Sessions
Mark Pryor

United States Senators

NATIONAL PRAYER BREAKFAST CO-CHAIRS

November 15, 2011

The Honorable Lisa P. Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20004-2403

Dear Mr. and Mrs. Jackson:

On behalf of the Congressional Committee, we have the pleasure of inviting you to join us for the 60th National Prayer Breakfast, which will be held on Thursday, February 2, 2012, at 7:30 a.m. at the Washington Hilton in Washington, D.C.

Annually, Members of Congress, the President of the United States, and other national leaders gather to reaffirm our trust in God and recognize the reconciling power of prayer. Friends and leaders throughout the United States and from more than 140 countries come in the spirit of friendship to set aside differences and seek to build and strengthen relationships through our love for God and care for one another. Although we face tremendous challenges each day, our hearts can be strengthened both individually and collectively as we seek God's wisdom and guidance together.

Your prompt response is essential and greatly appreciated. We hope you will be able to join us for this special occasion.

Sincerely,

Jeff Sessions

Mark Pryor

NPB 5

PHONE (202) 266-9970 FAX (202) 266-9978
E-MAIL: NPB@INTFRIENDS.US

AL-11-002-0100

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510–6175

December 1, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

Concerns have been raised in regard to recent accounts in the press that several companies generated and sold tens of millions of Renewable Identification Numbers (RINs) without producing accompanying physical volumes of the fuel. EPA considered this scenario while developing the Renewable Fuel Standard (RFS2). The agency, however, adopted a "buyers beware" position in regard to RINs purchases that may lead to fines and penalties of the obligated parties that purchased these invalid RINs in good faith.

The effectiveness of RFS2 is premised upon RINs reliability. More importantly, obligated parties that attempt to comply in good faith should not be penalized for doing so. These penalties could be particularly harmful to smaller businesses. Further, lack of faith in the RIN market may place small renewable fuel producers at a disadvantage as well.

In order to help us understand how EPA is performing oversight of RINs transactions, we request you provide us with detailed answers to the following questions:

1. Who is eligible to register under the program and what does "registered" actually mean?
2. What is the registration process?
3. What factors does EPA use to evaluate applicants and ensure their capability to produce renewable fuel and thus legally generate the accompanying RINs?
4. What components of the program are designed to minimize fraud and protect participants?
5. How does EPA monitor the actions of registered parties?
6. What reviews, audits or checks does EPA perform to ensure the integrity of the program?
7. Does EPA conduct its own internal audits of registered applicants or does it contract out those services? If EPA uses outside contractors, what guidelines does the Agency employ to ensure third party adherence to audit requirements and standards?
8. What actions does EPA take to warn and/or protect potential victims that purchase invalid or fraudulent RINs?

9. What is the relationship between the Central Data Exchange (CDX) and EPA Moderated Transaction System (EMTS)?
10. Must all RIN transactions be cleared through EMTS? If not, why not?
11. Can only registered CDX parties have RIN transactions recognized on EMTS?
12. EMTS was created by rulemaking in 2010. Why did EPA not seek new public comment on the "buyers beware" principle in the proposed 2011 rule?
13. How long has EPA been aware of and investigating allegations of fraud in the RIN marketplace? Were any concerns about the integrity of the RIN market ever communicated to the obligated party community prior to the issuance of the Notice of Violations (NOV) on November 7, 2011?
14. What percentage of the RINs entered into EMTS in 2011 does EPA believe may be fraudulent or otherwise invalid?
15. Has EPA considered methods to allow obligated parties, or other affected parties, to replace fraudulent/invalid RINs in a manner that would allow the party to remain in compliance without the need to issue an NOV?
16. Is EPA's enforcement policy (with regard to obligated parties that acquired invalid RINs in good faith) consistent with EPA's enforcement policies for other credit programs? Please provide examples of where EPA has initiated enforcement actions against parties that acquired and used credits that were later found to be invalid through no fault of the company using the credits for compliance.
17. What are the obligations and/or liabilities of parties in the transaction chain other than obligated parties that may have purchased and re-sold RINs that were determined to be invalid?
18. Describe the specific due diligence that an obligated party could take to ensure with 100% confidence that RINs are valid. Would such due diligence be an affirmative defense against an NOV for retiring RINs that are subsequently found to be invalid? If the recommended due diligence requires physically inspecting all plants that an obligated party would accept RINs from, would this be practicable for foreign producers of renewable fuel?
19. Can Financial Services Firms participate in RIN markets? If so, what is their role?
20. What is EPA's plan to ensure the future reliability of RIN markets?

If you have any questions regarding this letter please contact J.W. Hackett at 202-224-4764 with the Committee on Environment and Public Works or Stephen Lehrman in the office of Senator Pryor at 202-228-3063. Please respond in writing within 14 days of receiving notice of this letter.

Sincerely,

James M. Inhofe
Ranking Member
Committee on Environment and Public Works

Mark Pryor
United States Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 19 2012

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your December 1, 2011 letter to Administrator Lisa P. Jackson, co-signed by Senator James Inhofe, concerning the U.S. Environmental Protection Agency's oversight of Renewable Identification Number (RIN) transactions under the Renewable Fuels Standard (RFS) program. You explained that your questions are in response to recent press accounts of fraudulent RIN generation activity and the potential consequences for obligated parties who rely on RINs to meet RFS requirements. Administrator Jackson asked that I respond on her behalf, and I welcome the opportunity to address the important issues you raise.

Congress established the RFS program in the Energy Policy Act of 2005 to reduce the nation's reliance on imported petroleum by requiring that transportation fuel sold in the United States contain a minimum volume of renewable fuel. Congress expanded the program in the Energy Independence and Security Act of 2007 to require significantly higher volumes of renewable fuel, lay the foundation for achieving significant reductions in greenhouse gas emissions, and encourage the development and expansion of the nation's renewable fuels sector. The EPA developed the regulations for implementing the RFS program in collaboration with refiners, renewable fuel producers, distributors, and obligated parties (gasoline and diesel producers and importers) to work largely in concert with the fuels market and existing business practices. Consistent with the statutes creating the RFS program and the long history of fuel programs from unleaded gasoline to ultra-low sulfur diesel, the EPA placed the obligation to meet the RFS volume mandates on gasoline and diesel producers and importers.

The EPA also included in the RFS regulations the flexibility sought by obligated parties to demonstrate compliance with renewable fuel volume requirements either by acquiring RINs from the renewable fuel they produce or by purchasing RINs from others. The statutory volume requirements could have been implemented in a simple manner by requiring each obligated party to use a specified amount of renewable fuel. However, to provide flexibility, the EPA instead developed regulations allowing obligated parties to use less than their required amount of renewable fuel as long as others use more. RINs were created to implement that flexibility.

From the beginning, the RFS regulations have made clear that it is the responsibility of obligated parties to ensure that they use valid RINs to demonstrate compliance and that there would be no safe harbor provisions with regard to invalid RINs. When Congress amended the RFS in 2007, it did not indicate that the EPA should change this approach. The regulations, as revised to implement EISA, restate that an underlying principle of RIN ownership is "buyers beware." As EPA explained in establishing the

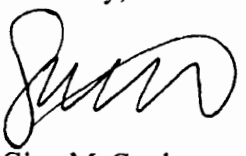
regulations, the Agency could not and would not validate or certify the actual production of renewable fuel and associated RINs.

At the same time, RFS regulatory requirements and compliance efforts are not focused exclusively on obligated parties. As the Agency stated in the RFS2 preamble, and as has been our practice, we look first at the generators of the invalid RINs in taking enforcement action with respect to invalid RINs. EPA's Office of Enforcement and Compliance Assurance (OECA) and Office of Transportation and Air Quality (OTAQ) are currently working together to identify and pursue fraudulent RIN generators. Since use of fraudulent RINs is a violation of the RFS regulations, Notices of Violation (NOVs) have been issued to companies that relied on invalid RINs to demonstrate compliance. We are now working with obligated parties that received NOVs to come into compliance. The fact that the Agency is pursuing fraudulent RIN generators demonstrates our commitment to an effective RFS program and a level playing field for all RIN producers, owners, and users.

In your letter you ask 20 specific questions about RIN transactions and the EPA actions with respect to those transactions. We answer your questions in an enclosure to this letter.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,



Gina McCarthy
Assistant Administrator

Enclosure

RIN Questions and Answers

Following are your questions and our responses:

1. *Who is eligible to register under the program and what does "registered" actually mean?*

   Any individual or company who plans to participate in the RFS program must first register with the Agency. There are three principal categories of registrant: 1) a RIN-generating renewable fuel producer/importer, 2) an obligated party, and 3) a RIN owner. Registration for each category has different requirements and results in the assignment of a company identification number and possibly one or more facility identification numbers (in the case of RIN generators and obligated parties). Only a party registered as a renewable fuel producer or importer can generate RINs in the EPA Moderated Transaction System (EMTS).

2. *What is the registration process?*

   Registration requirements vary by registrant category. All registrations are processed through the EPA fuels registration system. In the case of renewable fuel producers, they must provide information on the renewable fuel product they produce, the production process employed, the feedstocks they are capable of using, as well as facility production capacity. Producers must also provide documentation including a demonstration that their product has been registered with EPA's fuel and fuel additives registration system, copies of air permits, a feedstock plan, and an independent engineer's review and report that they are capable of producing the renewable fuel product they plan to produce. Some producers (e.g., those claiming an exemption from the 20% minimum lifecycle greenhouse gas reduction requirements, foreign renewable fuel producers) must supply additional information. In the case of obligated parties, they are typically already registered in the EPA fuel registration system because they are subject to registration requirements under other fuel programs. Those obligated parties that are already registered have no additional registration requirements for the RFS program. Those parties that are not already registered must complete the registration process. As for RIN owners that are not also RIN generators or obligated parties, they must submit identifying and other information into the fuel registration system. Detailed requirements are posted on our web page at - http://www.epa.gov/otaq/fuels/reporting/programsregistration.htm.

   In general, EPA reviews each party's registration submission package to ensure that it is complete and consistent with the registrant's proposed plan for RIN generation. EPA accepts the registration application (allowing generation of RINs in EMTS for renewable fuel producers and importers) if application requirements have been met.

3. *What factors does EPA use to evaluate applicants and ensure their capability to produce renewable fuel and thus legally generate the accompanying RINs?*

EPA generally accepts renewable fuel applications if the information is complete and in order. Since the start of the RFS2 program implementing changes required by the Energy Independence and Security Act of 2007, EPA has required supplemental documentation such as air permits and an independent engineer's review. In most cases EPA accepts the registration if the documentation supports the information provided by the party in the registration system. The independent engineer's report is used to help confirm that a facility exists, that it has the equipment necessary to make a product, that it has the capacity to support reported volume, and that is capable of processing claimed feedstocks. EPA may also conduct on-site inspections and audits to review whether the information submitted is complete and accurate.

4. *What components of the program are designed to minimize fraud and protect participants?*

Two third-party elements are designed to minimize fraud. First, an independent engineering review and report is required as part of registration. Second, an independent auditor's attestation report is required to be completed annually by a CPA or certified auditor. The attest process requires that a party that is engaged in the RIN system as a RIN generator, obligated party, and/or RIN owner hire an independent auditor to review the party's records and reports according to the schedule provided in the regulations. This audit helps ensure that information reported to EPA is backed by documents such as purchase receipts for feedstocks, bills of lading for delivery, invoices, laboratory test results, etc., as required by the program. EPA may also conduct on-site inspections and audits to review the accuracy and completeness of reported information and underlying documentation.

Additionally, the EPA Moderated Transaction System (EMTS), the electronic RFS reporting and RIN tracking tool, is tied into the registration system to control access and functionality such that only registered renewable fuel producers or importers may generate RINs and only for the specific products for which they are registered. For example a registered ethanol producer would not be able to generate biomass-based diesel RINs without additional registration submissions and EMTS authorization. The EMTS system also allows obligated parties to block RINs that might come from renewable fuel sources that are questionable or that they have not verified, and it also allows market participants to "lock" out RINs that may not be valid to avoid them from being traded or used for compliance.

5. *How does EPA monitor the actions of registered parties?*

EPA monitors registered party actions through EMTS, attest audits, annual compliance reports (for obligated parties) and follow-up EPA inspections, as appropriate. Registered parties report to EMTS their accounting of RIN generation, RIN transactions between parties and RIN use for compliance. Transaction information must be submitted to EMTS within five business days of a transaction being completed. However, EMTS only monitors RIN transactions; all other information regarding the production of renewable fuel product is required to be kept as records that are used for attest audits and subject to inspection or audit by EPA.

6. *What reviews, audits, or checks does EPA perform to ensure the integrity of the program?*

   As noted above, the RFS program provides obligated parties with compliance flexibility by allowing volume requirements to be met with RINs that can be traded. An express underpinning of that flexibility is that obligated parties bear responsibility for ensuring the validity of the RINs they use to demonstrate compliance. EPA has the ability to review information submitted to EMTS for consistency, review attest audit reports and conduct on-site inspections and audits.

7. *Does EPA conduct its own internal audits of registered applicants or does it contract out those services? If EPA uses outside contractors, what guidelines does the Agency employ to ensure third party adherence to audit requirements and standards?*

   As a general matter, field inspections are conducted by EPA personnel and may also be conducted by contractors. OECA has requirements and standards for conducting inspections.

8. *What actions does EPA take to warn and/or protect potential victims that purchase invalid or fraudulent RINs?*

   As EPA stated at the inception of the RFS program, the Agency does not validate or certify RINs and is not capable of doing so based solely on the information reported to EPA. In rulemaking notices and the regulations themselves (RFS2 preamble and CFR§ 80.1431), EPA has made clear that buyers of RINs are responsible for ensuring their validity. Existing business practices and common sense similarly counsel that buyers take steps to ensure that products they purchase meet their specifications or have recourse if the products do not.

   When EPA suspects RINs have been fraudulently generated, it commences an investigation, but it may take considerable time to determine whether a violation has occurred. It is thus important that the regulated community protect itself by exercising due diligence.

9. *What is the relationship between the Central Data Exchange (CDX) and EPA Moderated Transaction System (EMTS)?*

   CDX is EPA's electronic reporting portal; it provides a secure and standardized environment for regulated parties to submit data under a variety of EPA programs. It allows individual users to access the registration and reporting systems for the fuels programs in OTAQ. EMTS is one of the fuels reporting system that is accessible through CDX.

10. *Must all RIN transactions be cleared through EMTS? If not, why not.*

    Since the start of the RFS2 program, all RIN transactions must be reported to EMTS shortly after the transaction is conducted.

11. *Can only registered CDX parties have RIN transactions recognized on EMTS?*

Yes. Since the start of the RFS2 program, only persons registered with CDX who are also associated with a registered EMTS company (RIN generator, obligated party, or RIN owner) can access and use EMTS to conduct RIN transactions.

12. *EMTS was created by rulemaking in 2010. Why did EPA not seek new public comment on the "buyers beware" principle in the proposed 2011 rule?*

The "buyer beware" principle was established in the original RFS program as an essential element of providing obligated parties with the flexibility to meet all or part of their volume requirements through the purchase of RINs. In revising the RFS regulations to reflect the changes required by EISA, EPA kept in place that and other fundamental building blocks of the RFS program. To implement EISA's changes, EPA created the EMTS reporting system to manage the more complex RIN generation qualifications and significantly expanded volume requirements and RIN types that EISA established. The additional complexity of the EISA's requirements only increased the need for RIN buyers to take responsibility for ensuring the validity of RINs. To the extent interested parties wished to revisit this principle in the RFS2 rulemaking implementing EISA's requirements, they were free to do so.

13. *How long has EPA been aware of and investigating allegations of fraud in the RIN marketplace? Were any concerns about the integrity of the RIN market ever communicated to the obligated party community prior to the issuance of the Notice of Violations (NOV) on November 7, 2011?*

EPA has investigated suspected instances of fraud as the Agency has become aware of them. However, it is not appropriate for EPA to inform the regulated community about suspected instances of fraud until the Agency has developed sufficient proof of fraudulent activity.

14. *What percentage of RINs entered into EMTS in 2011 does EPA believe to be fraudulent or otherwise invalid?*

EPA believes that the vast majority of RINs entered into EMTS in 2011 are in fact valid. The RINs involved in the recently announced NOVs are about 0.3 percent of the total 2010 RIN market, and were generated before RFS2 requirements and EMTS were established.

15. *Has EPA considered methods to allow obligated parties, or other affected parties, to replace fraudulent/invalid RINs in a manner that would allow the party to remain in compliance without the need to issue an NOV?*

It is not a violation of the RFS regulations to acquire fraudulent or invalid RINs; refiners and other obligated parties may therefore replace those fraudulent or invalid RINs with valid RINs without violating the RFS requirements, as long as they do so before using the fraudulent or invalid RINs to demonstrate its compliance with its annual renewable fuel volume requirements.

Use of a fraudulent or invalid RIN is a violation of the RFS regulations, however, so EPA issued NOVs to those companies that used RINs fraudulently generated by Clean Green Fuels to demonstrate compliance with their 2010 RFS requirement.

The regulatory prohibition on using invalid RINs is distinct from the regulatory requirement that refiners and obligated parties have a sufficient number of valid RINs to satisfy their annual renewable fuel obligation. EPA has made clear that NOV recipients, in revising their 2010 compliance reports to remove the invalid RINs, may show that they meet the 2010 volume requirements by purchasing valid RINs or carrying forward a RIN deficit to be made up in the following compliance period.

It is also worth noting that some refiners and obligated parties have asked that EPA issue formal notices of violation to enable them to exercise their commercial contract indemnification provisions against invalid RIN sellers, which in turn protect them as buyers.

16. *Is EPA's enforcement policy (with regard to obligated parties that acquired invalid RINs in good faith) consistent with EPA's enforcement policies for other credit programs? Please provide examples of where EPA has initiated enforcement actions against parties that acquired and used credits that were later found to be invalid through no fault of the company using the credits for compliance.*

The RFS program, like other EPA fuel programs, provides that invalid credits cannot be used to achieve compliance, regardless of the buyer's good faith belief that the credits were valid. See, for example, the provisions at 40 C.F.R. §§ § 80.67(h), 80.275(d), 80.315(b), 80.532(d) and 80.536(d). In recent years, EPA has not found violations that led to enforcement actions against parties that acquired and used credits that were later found to be invalid. During the gasoline lead phase down, the Agency did take a number of enforcement actions arising from the generation and use of invalid lead credits.

17. *What are the obligations and/or liabilities of parties in the transaction chain other than obligated parties that may have purchased and re-sold RINs that were determined to be invalid?*

It is a violation for any party to sell an invalid RIN, and any party that transfers an invalid RIN will be liable for a violation. Any party that purchases and re-sells RINs must register with EPA and comply with a number of reporting and recordkeeping requirements. Commercial contracts for RIN transactions between buyers and sellers constitute obligations or liabilities outside of the Agency's purview.

18. *Describe the specific due diligence that an obligated party could take to ensure with 100% confidence that RINs are valid. Would such due diligence be an affirmative defense against an NOV for retiring RINS that are subsequently found to be invalid? If the recommended due diligence requires physically inspecting all plants that an obligated party would accept RINs from, would this be practicable for foreign producers of renewable fuel?*

Each RIN transaction has the potential to be unique depending on circumstances of the transaction, so it is not practicable to describe the specific due diligence that an obligated party could take in every instance to ensure RINs are valid. We have learned from some RIN market participants that careful questioning and/or site inspections have revealed information indicating potential problems with the RINs they were considering purchasing. We are currently working with stakeholders to develop examples of questions and other practices that may be helpful in determining the validity of RINs. Due diligence is not an affirmative defense, but EPA may consider the level of due diligence in determining an appropriate penalty for any particular violation.

19. *Can Financial Services Firms participate in RIN markets? If so what is their role?*

Financial Services Firms may register and participate as RIN owners and are subject to all requirements of the program as such.

20. *What is EPA's plan to ensure the future reliability of RIN markets?*

EPA investigation of possible RIN fraud and enforcement against fraudulent RIN generators will help ensure the future reliability of RIN markets. Enforcement of the prohibition against use of invalid RINs also provides potential RIN buyers with increased incentive to take steps to determine the validity of RINs, which will also increase the reliability of RIN markets. In addition, EPA is working with stakeholders to provide more information and suggestions that can help potential buyers spot RIN fraud. We understand that market participants are also making efforts to develop systems that could potentially provide greater assurance to buyers that they are purchasing valid RINs.

AL-11-002-1574

United States Senate

WASHINGTON, DC 20510

July 26, 2011

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Dear Administrator Jackson:

We write to you out of concern regarding a proposed rule by the U.S. Environmental Protection Agency (EPA) to require power plants and other industrial and manufacturing facilities to minimize the impacts associated with the operation of cooling water intake structures (CWIS), as published in the *Federal Register* on April 20, 2011. Given the economic, environmental, and energy impacts this proposed rule could have, we urge the EPA to take a measured approach to this rulemaking in order to ensure sufficient flexibility and that any costs imposed by the requirements in the final rule are commensurate with the likely benefits.

Section 316(b) of the Clean Water Act (CWA) requires CWIS to reflect the best technology available for minimizing adverse environmental impact. For more than thirty years, the EPA and state governments have applied this requirement on a site-by-site basis, examining the impacts of CWIS on the surrounding aquatic environment.

As such, the proposed rule appropriately gives state governments the primary responsibility for making technology decisions regarding how best to minimize the entrainment of aquatic organisms at affected facilities, an approach which recognizes the importance of site-specific factors. A site-by-site examination of aquatic populations, source water characteristics, and facility configuration and location is vital in determining any environmental impacts, the range of available solutions, and the feasibility and cost-effectiveness of such solutions.

Unfortunately, the EPA has not adopted a similar approach to minimizing the impacts of impingement, but rather, is proposing uniform national impingement mortality standards. This approach to impingement sets performance and technology standards not demonstrated to be widely achievable and likely unattainable for many facilities. This method also takes away the technology determination from state governments and ignores the impingement reduction technologies already approved by these states as the best technology available.

And in so doing, the EPA has proposed a rule costing more than twenty times the estimated benefits – according to its very own estimate. This is notable considering the cost estimate does not include the cost of controls to address entrainment.

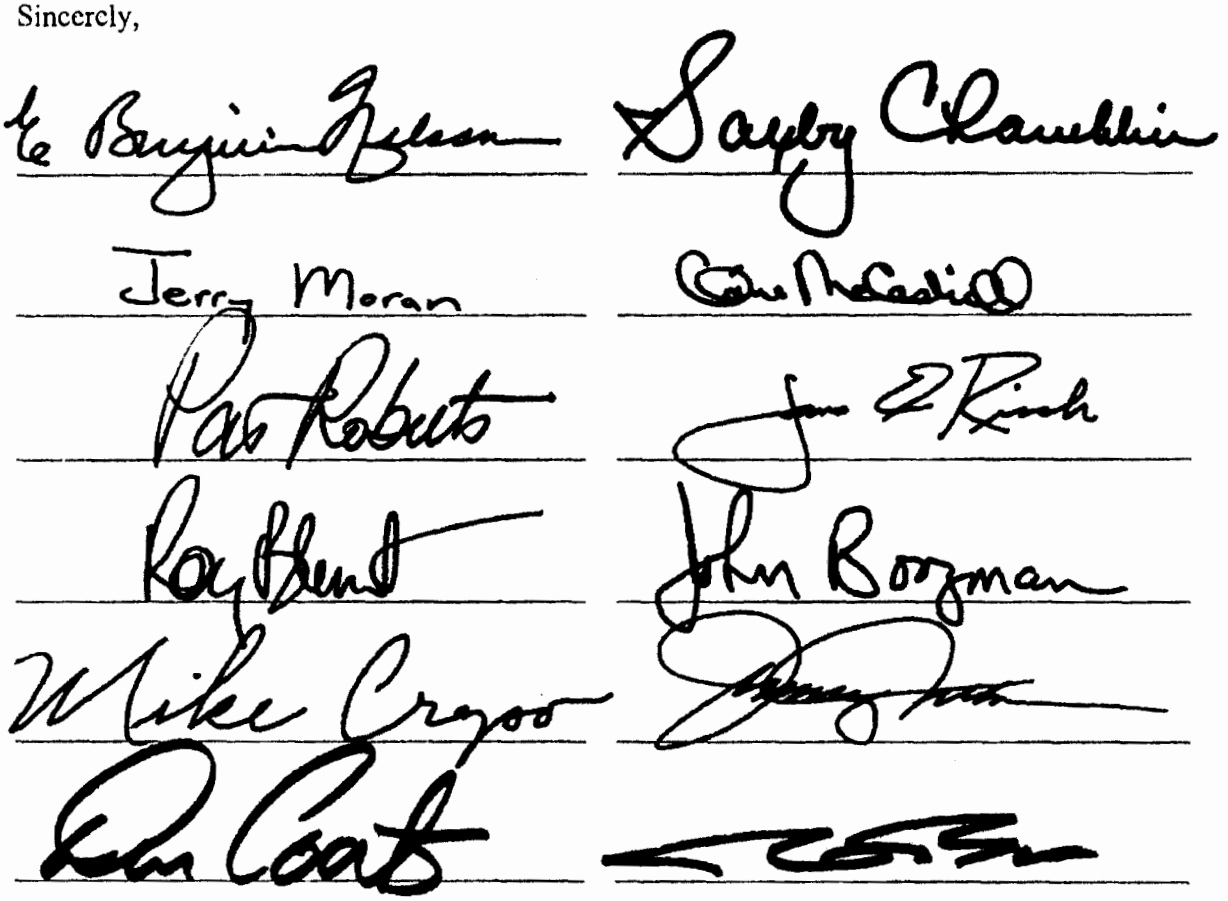
As an alternative, we believe the rule should give state environmental regulators the discretion to perform site-specific assessments to determine the best technology available for addressing both

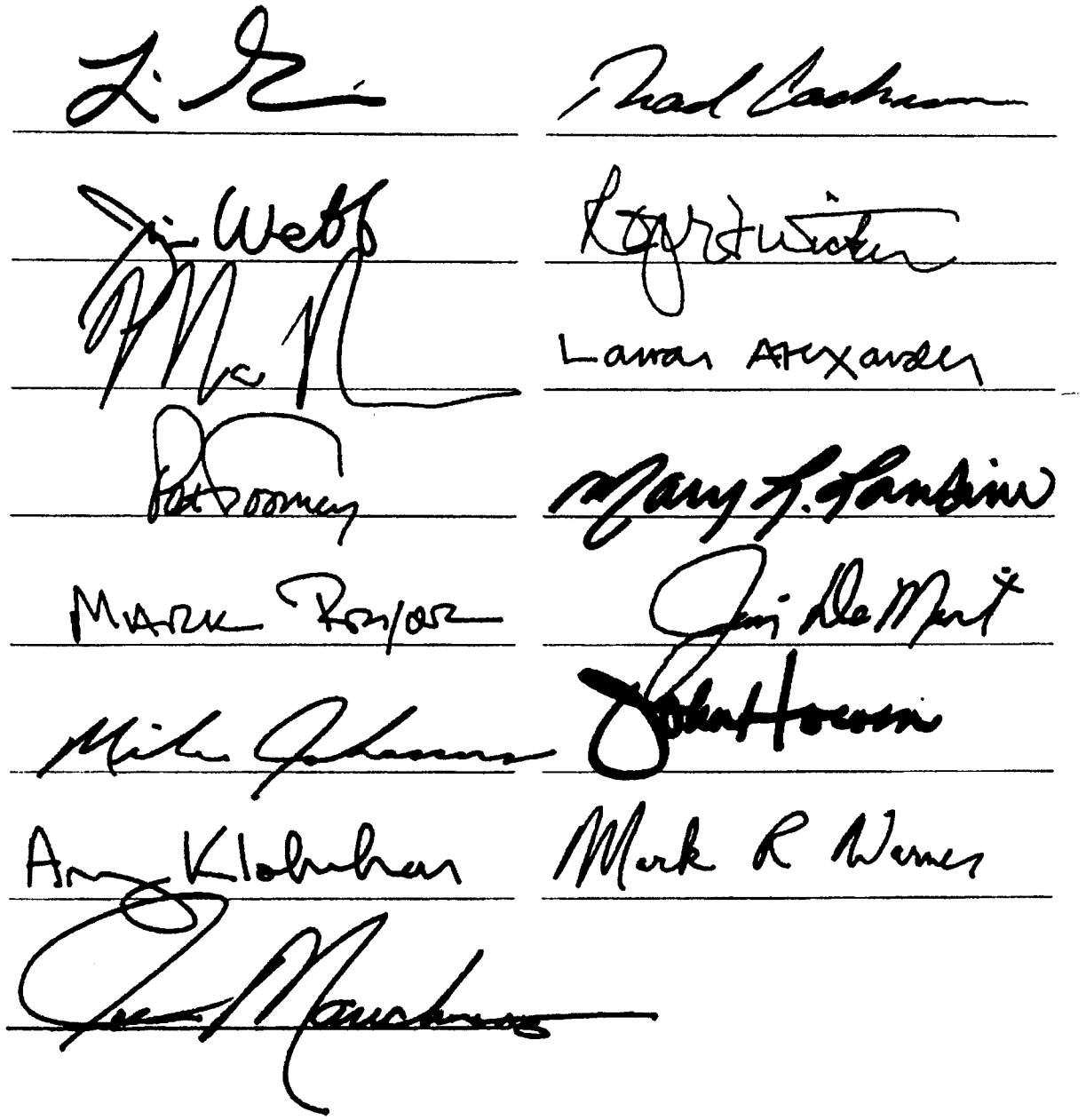
impingement and entrainment together. This approach stands in stark contrast to a national one-size-fits-all approach and allows a consideration of factors on a site-by-site basis. We feel this would provide consistency and give permitting authorities the ability to select from a full range of compliance options to minimize adverse environmental impacts, as warranted, while accounting for site-specific variability, including cost and benefits. Furthermore, we believe the EPA should focus on identifying beneficial technology options, rather than setting rigid performance standards; and the EPA should not define closed-cycle cooling to exclude those recirculating systems relying on man-made ponds, basins, or channels to remove excess heat.

Given the proposed rule's potential to impact every power plant across our country, an inflexible standard could result in premature power plant retirements, energy capacity shortfalls, and higher energy costs for consumers. Therefore, we urge you to use the flexibility provided by the Supreme Court and the Presidential Executive Order on regulatory reform, E.O. 13563, *Improving Regulation and Regulatory Review*, and modify the proposed rule to ensure that any new requirements will produce benefits commensurate with the costs involved and maximize the net benefits of the options available.

Thank you for your consideration of our request. We look forward to your response.

Sincerely,




Jim Webb
Lamar Alexander
Mark Kirk
Mark R Warner

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 2 2011

OFFICE OF
WATER

The Honorable Mark Pryor
United States Senate
Washington, DC 20510

Dear Senator Pryor:

Thank you for your letter of July 26, 2011, regarding the proposed regulation on cooling water intakes. Your concerns over potential economic, environmental, and energy impacts echo the concerns we are hearing from others during the public comment period.

Our goal was, and continues to be, a process that results in a common-sense and cost-effective approach to protecting aquatic life without sacrificing electricity services on which households and businesses across the country depend. I have strived to take a measured approach to this proposal by establishing a strong baseline level of protection, and then allowing states the primary responsibility to develop additional safeguards for aquatic life through a rigorous site-specific analysis. This approach allows states to consider technologies already employed by facilities, to address site-specific water characteristics and facility configuration, and to perform best technology available assessments by a process under which factors such as costs and benefits may be considered. Several of your specific comments on the proposed approach have resonated with us. For example, you mention the need for a more flexible approach to the impingement standard. Others have expressed a similar concern, and we have already had productive stakeholder discussions about alternatives.

The EPA is proposing these standards to meet its obligations under the Clean Water Act pursuant to a recent settlement agreement with environmental groups whereby the EPA agreed to issue a final decision by July 2012. When the Agency takes final action we will be providing the public and our regulated stakeholders with the regulatory certainty they have lacked for 30 years, and that certainty – in conjunction with the considerable flexibility our federal regulation provides to states – will allow regulated stakeholders to make sound investment decisions, and hasten our economic recovery.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Greg Spraul in EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

AL-12-000-5501

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 13 2012

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Mark L. Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

The U.S. Environmental Protection Agency's (EPA) Superfund program will be proposing to add the Cedar Chemical Corporation site, located in West Helena, Arkansas, to the National Priorities List (NPL) by rulemaking. The EPA received a governor/state concurrence letter supporting the listing of the site on the NPL. Listing on the NPL provides access to federal cleanup funding for the nation's highest priority contaminated sites.

Because the site is located within your state, I am providing information to help in answering questions you may receive from your constituency. The information includes a brief description of the site, and a general description of the NPL listing process.

If you have any questions, please contact me or your staff may contact Raquel Snyder, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586. We expect the rule to be published in the Federal Register in the next several days.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

Enclosures

United States Environmental Protection Agency

OSWER/OSRTI
Washington, DC 20460

NATIONAL PRIORITIES LIST (NPL)

*** *Proposed Site* ***

March 2012

CEDAR CHEMICAL CORPORATION | West Helena, Arkansas

Phillips County

Site Location:

The Cedar Chemical site is an abandoned chemical manufacturing facility located in Phillips County, Arkansas south of West Helena, Arkansas. The site consists of 48 acres along State Highway 242, 1 mile southwest of the intersection of U.S. Highway 49 and Highway 242. The site is in the Helena-West Helena Industrial Park and consists of six former production units, support facilities and an office on the north side of Industrial Park Road. A biological treatment system is located south of Industrial Park Road, Arkansas Highway 242 to the northwest, a Union Pacific railway to the northeast, and other industrial park properties to the southeast and southwest bound the site.

Site History:

The facility was initially operated by Helena Chemical in 1970. The facility was purchased by Eagle River Chemical and the facility was operated for approximately 18 months. During this time period, dinoseb was produced on the site. From 1971 to 2002 the facility manufactured or processed a variety of agricultural and organic chemicals under various owners and operators. The last owner of record was Cedar Chemical Corporation. On March 8, 2002, Cedar Chemical Corporation filed for bankruptcy. Manufacturing and plant operations were shut down shortly thereafter. The Arkansas Department of Environmental Quality (ADEQ) assumed control of the facility on October 12, 2002, and currently acts as the caretaker of the facility.

Site Contamination/Contaminants:

During its operational life, Cedar Chemical manufactured various agricultural chemicals, including insecticides, herbicides, polymers and organic intermediates. Chemicals of concern are dieldrin, 1,2-dichoroethane, aldrin, dinoseb, chloroform, methylene chloride, toxaphene, methoxychlor, heptachlor and pentachlorophenol. Plant processes were batch operations, with seasonal production fluctuations and the frequent introduction of new products. Chemical processing at the production units included alkylation, amidation, carbamoylation, chlorination, distillation, esterification, acid and base hydrolysis and polymerization.

Potential Impacts on Surrounding Community/Environment:

Environmental issues associated with the facility include abandoned chemicals, buried drums, ground water contamination, surface and subsurface soil contamination and an abandoned storm water treatment system.

Response Activities (to date):

In January 2003, the EPA Region 6 conducted a removal action and removed chemicals left in tanks and containers. On March 22, 2007, ADEQ, pursuant to the authority of the Arkansas Remedial Action Trust Fund Act (RATFA), issued a Consent Administrative Order (CAO) LIS 07-027 to Tyco Safety Products-Ansul Incorporated, formerly known as Wormald US, Inc. (Ansul), Helena Chemical Company (Helena Chemical), and ExxonMobil Chemical Co., a division of ExxonMobil Corporation (ExxonMobil) regarding Cedar Chemical. The CAO directed that environmental concerns be addressed at the facility. Currently, the facility is leased to Quapaw Products LLC which is revitalizing two of the chemical production units.

Need for NPL Listing:

The Governor of Arkansas has requested Cedar Chemical Corporation be placed on the NPL using Arkansas's one state NPL site selection under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This nomination has the support of the ADEQ, local citizens, stakeholders and elected officials. There is no other viable cleanup alternative.

[The description of the site (release) is based on information available at the time the site was evaluated with the HRS. The description may change as additional information is gathered on the sources and extent of contamination.]

For more information about the hazardous substances identified in this narrative summary, including general information regarding the effects of exposure to these substances on human health, please see the Agency for Toxic Substances and Disease Registry (ATSDR) ToxFAQs. ATSDR ToxFAQs can be found on the Internet at http://www.atsdr.cdc.gov/toxfaq.html or by telephone at 1-888-42-ATSDR or 1-888-422-8737.

EPA United States Environmental Protection Agency

OSWER/OSRTI
Site Assessment and Remedy Decisions Branch
Washington, DC 20460

NATIONAL PRIORITIES LIST (NPL)

WHAT IS THE NPL?

The National Priorities List (NPL) is a list of national priorities among the known or threatened releases of hazardous substances throughout the United States. The list serves as an information and management tool for the Superfund cleanup process as required under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances.

There are three ways a site is eligible for the NPL:

1. **Scores at least 28.50:**
   A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (HRS), which EPA published as Appendix A of the National Contingency Plan. The HRS is a mathematical formula that serves as a screening device to evaluate a site's relative threat to human health or the environment. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for inclusion on the NPL. This is the most common way a site becomes eligible for the NPL.

2. **State Pick:**
   Each state and territory may designate one top-priority site regardless of score.

3. **ATSDR Health Advisory:**
   Certain other sites may be listed regardless of their HRS score, if all of the following conditions are met:

   a. The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Department of Health and Human Services has issued a health advisory that recommends removing people from the site;
   b. EPA determines that the release poses a significant threat to public health; and
   c. EPA anticipates it will be more cost-effective to use its remedial authority than to use its emergency removal authority to respond to the site.

Sites are first proposed to the NPL in the *Federal Register*. EPA then accepts public comments for 60 days about listing the sites, responds to the comments, and places those sites on the NPL that continue to meet the requirements for listing. To submit comments, visit www.regulations.gov.

Placing a site on the NPL does not assign liability to any party or to the owner of any specific property; nor does it mean that any remedial or removal action will necessarily be taken.

For more information, please visit www.epa.gov/superfund/sites/npl/.

AL-12-001-3563

United States Senate

WASHINGTON, DC 20510

August 7, 2012

Administrator Lisa P. Jackson
U.S. Environmental Protection Agency
Room 300, Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

With record droughts across the continental United States causing corn supplies to shrink and prices to spike, we ask you to use your existing waiver authority to adjust the corn-ethanol mandate for the Renewable Fuels Standard.

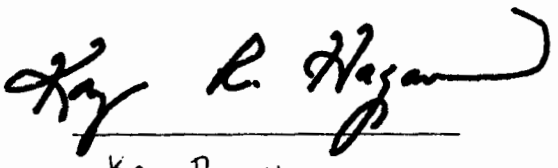
As you know, the Renewable Fuels Standard (RFS) -- approved as part of the Energy Independence and Security Act of 2007 (EISA) -- increased the original RFS. It was designed to enable continued utilization of corn-based ethanol as next-generation biofuels developed and assumed an increasingly larger share of the total RFS. While we believe the RFS will stimulate advanced biofuels to commercialization, adjusting the corn grain-ethanol mandate of the RFS can offer some relief from tight corn supplies and high prices.

As part of EISA, the Congress included "safety valves" that enable the agency to adjust the RFS in the event of inadequate supplies or to prevent economic harm to the country, a region, or a state. Recent data from the United States Department of Agriculture (USDA) suggests the EPA should exercise its waiver authority for the conventional, corn grain-ethanol mandate.

Earlier this year, the USDA indicated that 72 percent of the U.S. corn crop was in good or excellent condition. However, because of persistent extreme heat and drought, the USDA recently rated only 23 percent of the crop as good to excellent and 50 percent as poor to very poor. USDA's July World Agricultural Supply and Demand Estimates (WASDE) report projects that 2012/13 U.S. corn yields would be 146 bushels per acre, 20 bushels less than two months ago.

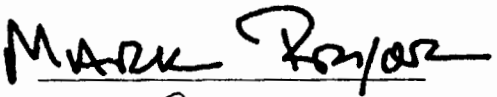
As stressful weather conditions continue to push corn yields lower and prices upward, the economic ramifications for consumers, livestock and poultry producers, food manufacturers, and foodservice providers will become more severe. In fact, USDA recently announced that the drought gripping half the country will help push food prices above-normal food price inflation to 3 percent to 4 percent next year. Therefore, we ask you to adjust the corn grain-ethanol mandate of the RFS to reflect this natural disaster and these new market conditions. Doing so will help to ease supply concerns and provide relief from high corn prices.

Sincerely,

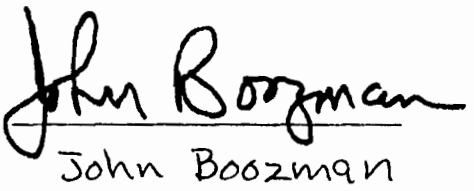


Kay R. Hagan

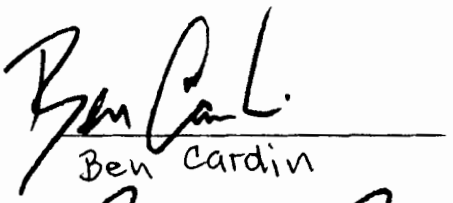
Saxby Chambliss



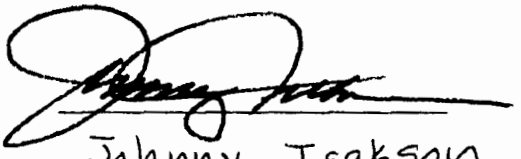
Mark Pryor



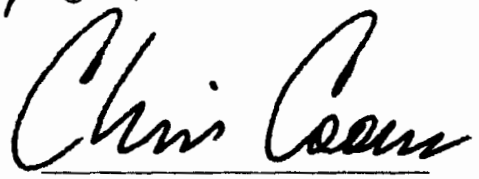
John Boozman



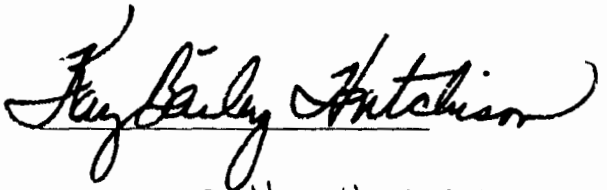
Ben Cardin



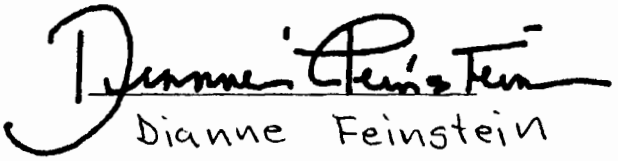
Johnny Isakson



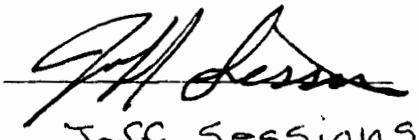
Chris Coons



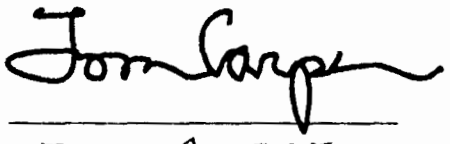
Kay Baily Hutchison



Dianne Feinstein



Jeff Sessions



Tom Carper

Barbara Mikulski

Lisa Murkowski

Jim Webb

Tom Coburn

Mike Crapo

Lindsey Graham

Mark R Warner

Mark Warner

John McCain

Mary Landrieu

James Risch

Joseph Manchin

Jeanne Shaheen

Tom Udall

cc: Secretary Tom Vilsack, U.S. Department of Agriculture
Secretary Steven Chu, U.S. Department of Energy

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 3 1 2013

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter dated August 7, 2012, co-signed by 24 of your colleagues, regarding a waiver of volume requirements under the Renewable Fuels Standard (RFS) program. The Administrator asked me to respond on her behalf.

Governors from several states and a number of organizations cited the drought conditions affecting much of the country in their request for a waiver of the national volume requirements for the RFS pursuant to the Clean Air Act. After extensive analysis, review of thousands of comments, and consultation with the Department of Agriculture (USDA) and the Department of Energy (DOE), the EPA denied the requests for a waiver in a decision published in the *Federal Register* on November 27, 2012.

The EPA recognizes that last year's drought has created significant hardships in many sectors of the economy, particularly for livestock producers. However, the agency's extensive analysis makes clear that Congressional requirements for a waiver have not been met and that waiving the RFS would have little, if any, impact on ethanol demand or energy prices over the time period analyzed.

The *Federal Register* notice contains a detailed description of the analysis the EPA conducted in conjunction with DOE and USDA, along with a discussion of relevant comments we received through our public comment process.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

Gina McCarthy
Assistant Administrator

AL-12-001-8523

United States Senate

WASHINGTON, DC 20510

October 23, 2012

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Dear Administrator Jackson:

The ENERGY STAR program continues to be one of the most effective tools our government and industry have to encourage the development and use of energy efficient products across a diverse and growing array of product categories. The program's success is undeniable and can be measured in any number of ways. It is because of the strength of the program that we write to express our concerns regarding the implementation of a third party certification requirement for consumer electronics and lighting products.

The integrity of the ENERGY STAR brand is critical to the long term success of the program, and we fully support EPA's need to respond to specific issues raised in the March 2010 GAO report. However, we are concerned that EPA's response to these issues has been overly broad and includes program-wide changes, including mandatory third-party certification, which may go well beyond addressing very specific problems within certain ENERGY STAR product categories. The program has grown to encompass more than 60 product categories, many dramatically different from one another. Third-party certification may be a useful and needed component of EPA's verification regime within some product categories, but we question whether the one-size-fits-all approach is in the best interest of all program participants, consumers and the long-term strength of the program.

We have heard legitimate concerns from program stakeholders about the effectiveness of mandatory third-party certification when weighed against the increased costs and time consuming nature of the requirement. Many consumer electronics and lighting products participating in the ENERGY STAR program now have life cycles measured in months, not years, and a delay of even a few weeks can add significantly to the cost of bringing a product to market. Some of these products are produced by small businesses where even small additional costs can have a significant negative impact on their ability to operate and grow.

In particular, we question the need for this mandatory added requirement when EPA itself has recognized the strong compliance records of certain product categories under the old self-certification regime. Did EPA study the added costs (in time and money) of a third-party certification mandate and consider the compliance records of specific product categories such as computers, electronics, and lighting before instituting a program wide mandate?

ENERGY STAR has been a successful, voluntary public-private partnership for over two decades. Stakeholders report that EPA's mandate for third-party certification creates a powerful disincentive for participation in the program at a time when the public and private sectors are focused on creating greater incentives for energy efficiency. We are very concerned that additional testing requirements may cause some participants to question the value of participating in the program. Industry stakeholders report that program participants are being forced to consider these added costs when evaluating whether to participate in the program and that many are considering not participating in the future. As we are sure you will agree, requirements that drive participants away from the ENERGY STAR program will only diminish its effectiveness.

In light of the serious negative consequences of the third-party certification mandate, we ask that you promptly address the concerns we have raised and outline the specific steps EPA will take to address these consequences and ensure the future strength of the ENERGY STAR brand.

Sincerely,

Jon Tester

Mark Pryor

Mary Landrieu

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 26 2013

OFFICE OF
AIR AND RADIATION

The Honorable Mark Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of October 23, 2012, co-signed by two of your Senate colleagues, regarding the U.S. Environmental Protection Agency's third-party certification requirements for ENERGY STAR products. We value your interest in the program's success and appreciate the opportunity to respond.

In your letter, you raise concerns about the costs associated with third-party certification, the need for these requirements in light of strong compliance records for certain product categories and the potential disincentive created for participation in the program.

As you indicate in your letter, the integrity of products that carry the ENERGY STAR label is important to maintaining consumer confidence and preserving the label's value in the marketplace. Third-party certification was not instituted in response to specific problems within certain ENERGY STAR product categories. To the contrary, third-party certification is the EPA's response to a growing risk that is relevant across all product categories. As the Government Accountability Office pointed out, the EPA's prior qualification process was vulnerable to fraud because it relied heavily on manufacturer self-declarations; independent certification considerably bolsters the integrity of the process.

ENERGY STAR's third-party certification requirements represent a market-based approach that reduces the need for government oversight, freeing up limited resources in support of the EPA's commitment to maintain up-to-date ENERGY STAR standards across more than 65 product categories. The certification requirements leverage existing international standards and pre-existing certification infrastructure, including product safety. Our approach allows manufacturers to tap into an existing market of private testing and certification organizations, offering them options that keep costs and timeframes competitive.

The EPA recognized and considered the additional cost to manufacturers that the new requirements represent, and took steps to minimize such costs to the extent possible. Participating manufacturers have the option to use their own, in-house laboratories to conduct testing that is then provided to a certification body (CB) for review, eliminating the cost of an external lab. The EPA has also recognized laboratories from around the world, reducing manufacturer time and shipping burdens. To date, this global network includes 474 laboratories recognized to test ENERGY STAR products, including 210 in the Asia Pacific region where much of the manufacturing takes place.

ENERGY STAR manufacturer partners generally have many options when it comes to choosing a certification body. There are currently 22 EPA-recognized CBs, with as many as 13 operating in some product categories. These organizations continue to compete on cost and turnaround time, the two central concerns of manufacturers. Many CBs offer a two-day turnaround time for product certification. This is faster than the government was able to promise when the EPA reviewed test reports for purposes of ENERGY STAR product qualification, and reflects the potential for efficiency gains in relying on the commercial market for this kind of service.

Participation in the ENERGY STAR program remains strong since third-party certification requirements became effective in January 2011. The number of products earning the label has been consistent with past rates of product qualification. Over 8,000 computers and 3,000 televisions have been certified. Participation in the lighting category is stronger than it has ever been. In April 2012, a new standard for ENERGY STAR light fixtures became effective. In just six months, nearly 10,000 fixtures have been certified as ENERGY STAR.

We continue to meet with stakeholders, including those from electronics and lighting industries, to ensure the ENERGY STAR program meets their needs while also continuing to be a label that consumers trust. On December 10, 2012, my staff hosted a meeting of representatives from the electronics industry to discuss the issue of third-party certification, among other issues.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Josh Lewis in the EPA's office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

Gina McCarthy
Assistant Administrator

AL-11-000-9233

THE WHITE HOUSE OFFICE
REFERRAL

May 31, 2011

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: APPROPRIATE ACTION

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1056373
MEDIA:	EMAIL
DOCUMENT DATE:	May 26, 2011
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE KENT CONRAD UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	WRITES TO ASK THE ADMINISTRATION TO RAPIDLY FINALIZE A RULE REGULATING COAL COMBUSTION RESIDUES (CCRs) UNDER SUBTITLE D THE NON-HAZARDOUS SOLID WASTE PROGRAM OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 85, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500
FAX A COPY OF REPONSE TO: (202) 456-5861

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: May 31, 2011 **CASE ID: 1056373**

NAME OF CORRESPONDENT: THE HONORABLE KENT CONRAD

SUBJECT: WRITES TO ASK THE ADMINISTRATION TO RAPIDLY FINALIZE A RULE REGULATING COAL COMBUSTION RESIDUES (CCRs) UNDER SUBTITLE D THE NON-HAZARDOUS SOLID WASTE PROGRAM OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION CODE	ACTION DATE	DISPOSITION TYPE RESPONSE	DISPOSITION CODE	DISPOSITION DATE COMPLETED
LEGISLATIVE AFFAIRS	ROB NABORS	ORG	05/31/2011			
ACTION COMMENTS:						
ENVIRONMENTAL PROTECTION AGENCY		A	05/31/2011			
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						

COMMENTS: 43 ADDL SIGNEES

MEDIA TYPE: EMAIL **USER CODE:**

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 85, EEOB.

1056373

United States Senate

WASHINGTON, DC 20510

May 26, 2011

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

In November, the public comment period concluded on the Environmental Protection Agency's (EPA's) proposed rulemaking for the regulation of coal combustion residues (CCRs). We write to ask the Administration to rapidly finalize a rule regulating CCRs under subtitle D, the non-hazardous solid waste program of the Resource Conservation and Recovery Act (RCRA).

The release of CCRs from the Tennessee Valley Authority impoundment in December 2008 properly caused the EPA to consider whether CCR impoundments and landfills should meet more stringent standards. All operators should meet appropriate standards, and those who fail to do so should be held responsible. We believe regulation of CCRs under subtitle D will ensure proper design and operations standards in all states where CCRs are disposed.

A swift finalization of regulations under subtitle D offers the best solution for the environment and for the economy. The environmental advantages of the beneficial use of CCRs in products such as concrete and road base are well-established. For example, a study released by the University of Wisconsin and the Electric Power Research Institute in November 2010 found that the beneficial use of CCRs reduced annual greenhouse gas emissions by an equivalent of 11 million tons of carbon dioxide, annual energy consumption by 162 trillion British thermal units, and annual water usage by 32 billion gallons. These numbers equate to removing 2 million cars from our roads, saving the energy consumed by 1.7 million American homes, and conserving 31 percent of the domestic water used in California.

We are concerned that finalizing a rule regulating CCRs under subtitle C of RCRA rule would permanently damage the beneficial use market. Since the EPA first signaled its possible intention to regulate CCRs under subtitle C, financial institutions have withheld financing for projects using CCRs, and some end-users have balked at using CCRs in their products until the outcome of the EPA's proposed rulemaking is known. Already, beneficial use of CCRs has decreased, and landfill disposal has increased. This result is counterproductive but likely to continue as long as the present regulatory uncertainty persists.

State environmental protection agencies have cautioned the EPA that regulating CCRs under subtitle C will overwhelm existing hazardous waste disposal capacity and strain budget and staff resources. Moreover, the bureaucratic and litigation hurdles involved in a subtitle C rule could lead to long delays before storage sites are upgraded or closed, resulting in slower environmental protection.

In two prior reports to Congress, the EPA concluded that disposed CCRs did not warrant regulation under subtitle C of RCRA. Despite this prior conclusion, the EPA's proposed subtitle C option would regulate CCRs more stringently than any other hazardous waste by applying the subtitle C rules to certain inactive and previously closed CCR units. The EPA has never before interpreted RCRA in this manner in over 30 years of administering the federal hazardous waste rules. The subtitle C approach is not supportable given its multiple adverse consequences and the availability of an alternative, less burdensome regulatory option under RCRA's non-hazardous waste rules that, by the EPA's own admission, will provide an equal degree of protection to public health and the environment.

In conclusion, we request that the Administration finalize a subtitle D regulation as soon as possible. The states and the producers of CCRs have raised concerns that should be corrected in a final subtitle D rule, including ensuring that any subtitle D regulations are integrated with and administered by state programs. Subtitle D regulation will improve the standards for CCR disposal, ensure a viable market for the beneficial use of CCRs, and achieve near-term meaningful environmental protection for disposed CCRs.

Thank you very much for your consideration of this important matter. We look forward to your response and to working with you to address this issue in a manner that is both environmentally and economically sound.

Sincerely,

Kent Conrad
United States Senate

Michael B. Enzi
United States Senate

Joe Manchin III
United States Senate

Johnny Isakson
United States Senate

Jerry Moran
United States Senate

John Boozman
United States Senate

Daniel Coats
United States Senate

Roy Blunt
United States Senate

John Hoeven
United States Senate

Roger F. Wicker
United States Senate

Thad Cochran
United States Senate

Claire McCaskill
United States Senate

Jon Tester
United States Senate

Lisa Murkowski
United States Senate

Orrin G. Hatch
United States Senate

Ben Nelson
United States Senate

John Barrasso
United States Senate

Pat Roberts
United States Senate

John Thune
United States Senate

David Vitter
United States Senate

Mary L. Landrieu
United States Senate

Mark R. Warner
United States Senate

Bob Corker
United States Senate

Mike Lee
United States Senate

Mark L. Pryor
United States Senate

Max Baucus
United States Senate

Richard Burr
United States Senate

Richard G. Lugar
United States Senate

Lindsey Graham
United States Senate

Rob Portman
United States Senate

Jim DeMint
United States Senate

Richard C. Shelby
United States Senate

Patrick J. Toomey
United States Senate

John Cornyn
United States Senate

Dean Heller
United States Senate

Lamar Alexander
United States Senate

Mark Begich
United States Senate

Chuck Grassley
United States Senate

Saxby Chambliss
United States Senate

Mark Kirk
United States Senate

Herb Kohl
United States Senate

James E. Risch
United States Senate

John D. Rockefeller IV
United States Senate

Ron Johnson
United States Senate

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 18 2011

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Mark L. Pryor
United States Senate
Washington, D.C. 20510

Dear Senator Pryor:

Thank you for your letter of May 26, 2011, to President Barack Obama in which you asked that the U.S. Environmental Protection Agency (EPA) finalize a rule regulating coal combustion residuals (CCR) under Subtitle D of the Resource Conservation and Recovery Act (RCRA) as soon as possible. I appreciate your comments regarding the CCR rule that the EPA proposed on June 21, 2010.

As you note in your letter, the regulation of CCR intended for disposal is appropriate, and the agency agrees with you that operators should meet appropriate standards, or be held accountable. The agency also shares your belief that the beneficial use of CCR, if conducted in a safe and environmentally protective manner, has many environmental advantages and should be encouraged.

Under the proposal, the EPA would regulate the disposal of CCR for the first time. As you know, the proposal sought public comment on two different approaches under RCRA. One option would treat such wastes as a "special waste" under Subtitle C of the statute, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The second option, as you indicated in your letter, would be to establish standards for waste management and disposal under the authority of Subtitle D of RCRA. The agency is currently reviewing and evaluating the approximately 450,000 public comments received on the proposal, many of which addressed the specific issues raised in your letter, before deciding on the approach to take in the final rule based on the best available science. The agency will issue a final regulation as expeditiously as possible.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

AL-11-001-2491

United States Senate

WASHINGTON, DC 20510

July 26, 2011

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Dear Administrator Jackson:

We write to you out of concern regarding a proposed rule by the U.S. Environmental Protection Agency (EPA) to require power plants and other industrial and manufacturing facilities to minimize the impacts associated with the operation of cooling water intake structures (CWIS), as published in the *Federal Register* on April 20, 2011. Given the economic, environmental, and energy impacts this proposed rule could have, we urge the EPA to take a measured approach to this rulemaking in order to ensure sufficient flexibility and that any costs imposed by the requirements in the final rule are commensurate with the likely benefits.

Section 316(b) of the Clean Water Act (CWA) requires CWIS to reflect the best technology available for minimizing adverse environmental impact. For more than thirty years, the EPA and state governments have applied this requirement on a site-by-site basis, examining the impacts of CWIS on the surrounding aquatic environment.

As such, the proposed rule appropriately gives state governments the primary responsibility for making technology decisions regarding how best to minimize the entrainment of aquatic organisms at affected facilities, an approach which recognizes the importance of site-specific factors. A site-by-site examination of aquatic populations, source water characteristics, and facility configuration and location is vital in determining any environmental impacts, the range of available solutions, and the feasibility and cost-effectiveness of such solutions.

Unfortunately, the EPA has not adopted a similar approach to minimizing the impacts of impingement, but rather, is proposing uniform national impingement mortality standards. This approach to impingement sets performance and technology standards not demonstrated to be widely achievable and likely unattainable for many facilities. This method also takes away the technology determination from state governments and ignores the impingement reduction technologies already approved by these states as the best technology available.

And in so doing, the EPA has proposed a rule costing more than twenty times the estimated benefits – according to its very own estimate. This is notable considering the cost estimate does not include the cost of controls to address entrainment.

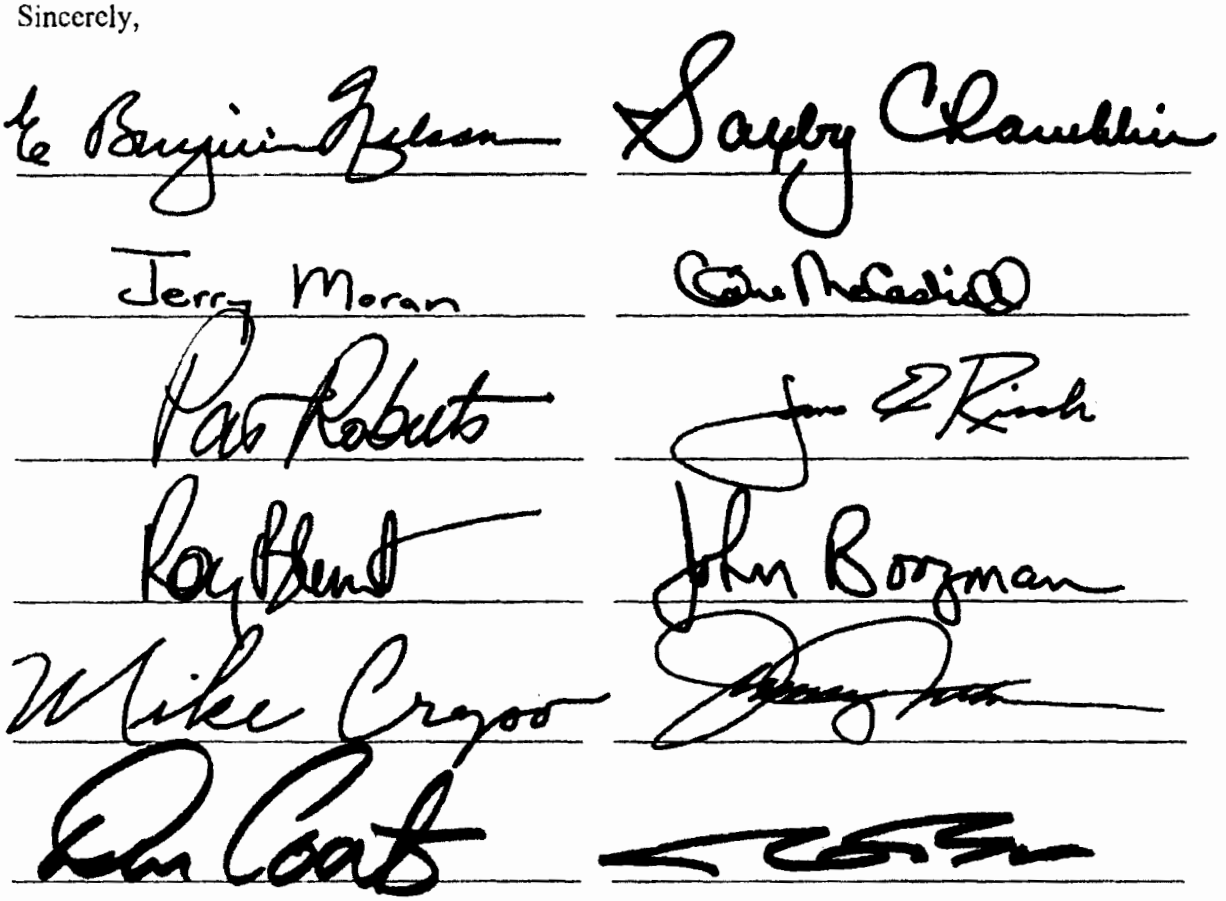
As an alternative, we believe the rule should give state environmental regulators the discretion to perform site-specific assessments to determine the best technology available for addressing both

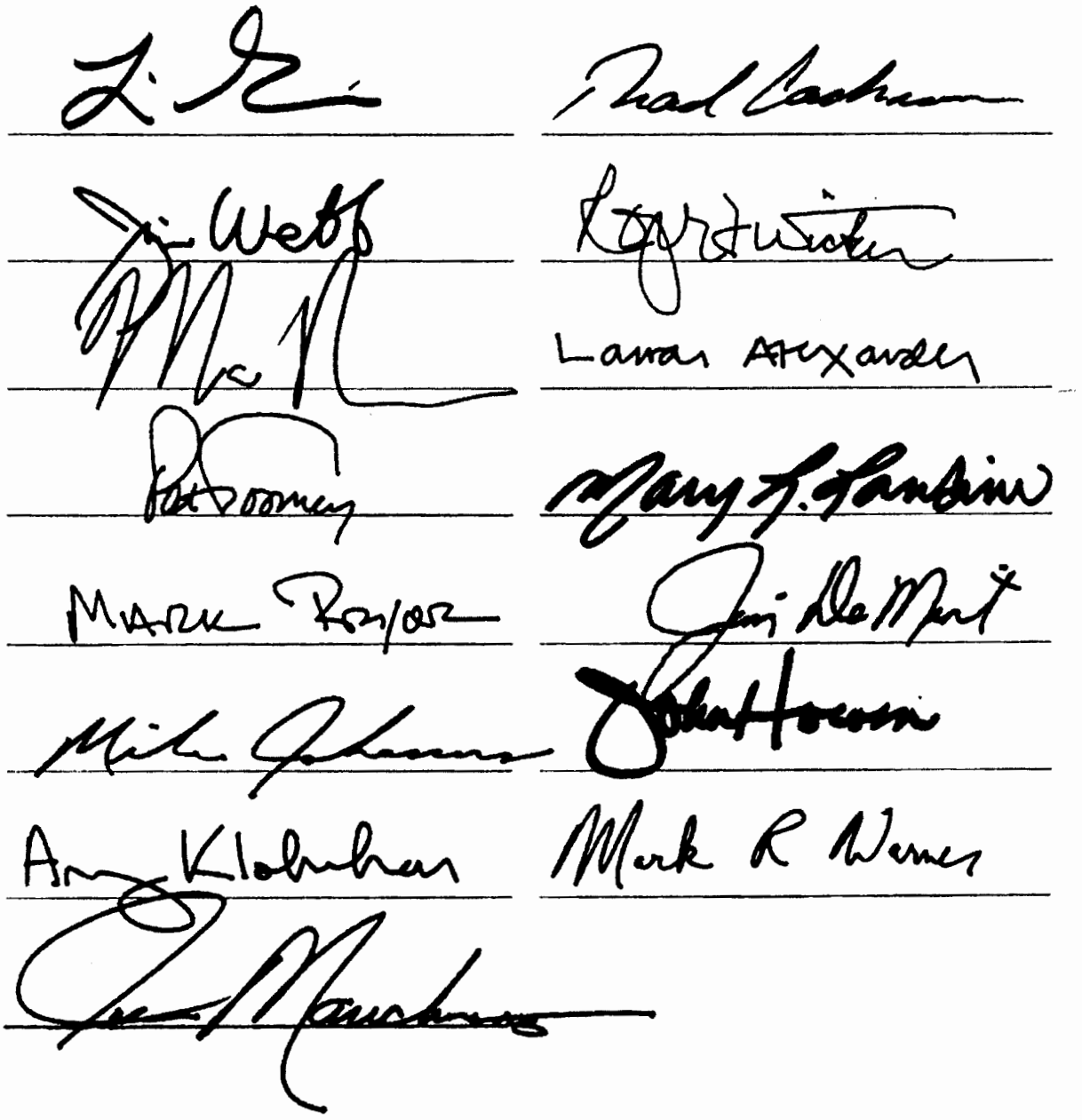
impingement and entrainment together. This approach stands in stark contrast to a national one-size-fits-all approach and allows a consideration of factors on a site-by-site basis. We feel this would provide consistency and give permitting authorities the ability to select from a full range of compliance options to minimize adverse environmental impacts, as warranted, while accounting for site-specific variability, including cost and benefits. Furthermore, we believe the EPA should focus on identifying beneficial technology options, rather than setting rigid performance standards; and the EPA should not define closed-cycle cooling to exclude those recirculating systems relying on man-made ponds, basins, or channels to remove excess heat.

Given the proposed rule's potential to impact every power plant across our country, an inflexible standard could result in premature power plant retirements, energy capacity shortfalls, and higher energy costs for consumers. Therefore, we urge you to use the flexibility provided by the Supreme Court and the Presidential Executive Order on regulatory reform, E.O. 13563, *Improving Regulation and Regulatory Review*, and modify the proposed rule to ensure that any new requirements will produce benefits commensurate with the costs involved and maximize the net benefits of the options available.

Thank you for your consideration of our request. We look forward to your response.

Sincerely,




Lamar Alexander
Mark Pryor
Mark R Warner

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 2 2011

OFFICE OF
WATER

The Honorable Mark Pryor
United States Senate
Washington, DC 20510

Dear Senator Pryor:

Thank you for your letter of July 26, 2011, regarding the proposed regulation on cooling water intakes. Your concerns over potential economic, environmental, and energy impacts echo the concerns we are hearing from others during the public comment period.

Our goal was, and continues to be, a process that results in a common-sense and cost-effective approach to protecting aquatic life without sacrificing electricity services on which households and businesses across the country depend. I have strived to take a measured approach to this proposal by establishing a strong baseline level of protection, and then allowing states the primary responsibility to develop additional safeguards for aquatic life through a rigorous site-specific analysis. This approach allows states to consider technologies already employed by facilities, to address site-specific water characteristics and facility configuration, and to perform best technology available assessments by a process under which factors such as costs and benefits may be considered. Several of your specific comments on the proposed approach have resonated with us. For example, you mention the need for a more flexible approach to the impingement standard. Others have expressed a similar concern, and we have already had productive stakeholder discussions about alternatives.

The EPA is proposing these standards to meet its obligations under the Clean Water Act pursuant to a recent settlement agreement with environmental groups whereby the EPA agreed to issue a final decision by July 2012. When the Agency takes final action we will be providing the public and our regulated stakeholders with the regulatory certainty they have lacked for 30 years, and that certainty – in conjunction with the considerable flexibility our federal regulation provides to states – will allow regulated stakeholders to make sound investment decisions, and hasten our economic recovery.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Greg Spraul in EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

AL-12-001-9326

Jeff Sessions
Mark Pryor

United States Senators

NATIONAL PRAYER BREAKFAST CO-CHAIRS

November 13, 2012

The Honorable Lisa P. Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20004-2403

Dear Mr. and Mrs. Jackson:

On behalf of the Congressional Committee, we have the pleasure of inviting you to join us for the 61st National Prayer Breakfast, which will be held on Thursday, February 7, 2013, at 7:30 a.m. at the Washington Hilton in Washington, D.C.

Annually, Members of Congress, the President of the United States, and other national leaders gather to reaffirm our trust in God and recognize the reconciling power of prayer. Friends and leaders throughout the United States and from more than 140 countries come in the spirit of friendship to set aside differences and seek to build and strengthen relationships through our love for God and care for one another. Although we face tremendous challenges each day, our hearts can be strengthened both individually and collectively as we seek God's wisdom and guidance together.

Your prompt response is essential and greatly appreciated. We hope you will be able to join us for this special occasion.

Sincerely,

Jeff Sessions

Mark Pryor

NPB 5

PHONE (202) 266-9970 FAX (202) 266-9978
E-MAIL: NPB@INTFRIENDS.US

Members of the Congress
of the United States of America

request the pleasure of your company at the

61st Annual
National Prayer Breakfast
with
The President of the United States
and other national leaders in the Executive,
Judicial and Legislative Branches
of our government

Thursday, February 7, 2013
at eight o'clock

Hilton Washington
International Ballroom
Washington, D.C.

Guests to be seated
by 7:30 a.m.

Adjournment
by 9:30 a.m.

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AR-11-001-1129

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 1 1 2011

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Mark Pryor
United States Senate
Washington, DC 20510

Dear Senator Pryor:

Thank you again for the constructive dialogue regarding issues relating to EPA's Non-Hazardous Secondary Materials (NHSM) rule, the Boiler Maximum Achievable Control Technology (MACT) rule and the Commercial and Industrial Solid Waste Incinerator (CISWI) rule. In the Administrator's letter of June 27, 2011 she indicated that the agency is exploring various pathways to address your specific concerns regarding implementation of the NHSM rule. EPA is committed to issuing guidance to assist industry in applying the legitimacy criteria, and had requested that industry representatives provide the agency with supporting data to further inform the development of such guidance.

We received additional information from industry and based on this information and further discussions, we have developed the enclosed concept paper for the development of guidance. The paper identifies approaches to the guidance that EPA continues to evaluate for determining whether concentrations of contaminants in the NHSM are "comparable" to concentrations of those same contaminants in traditional fuels. These comparisons are important in ensuring that NHSM are being legitimately recycled and are not solid wastes, as well as recognizing the varied uses of such secondary materials as product fuels.

We are optimistic about our ability to develop guidance that meaningfully addresses the industry concerns and we are giving it the highest priority within the agency. We intend to complete internal development of draft guidance based on the concept paper by August 31, 2011. In addition, we continue to evaluate all available options available to address the issues raised.

Please be assured that EPA will continue to keep you informed of our progress in addressing the issues involved with the NHSM rule, as well as the related Clean Air Act rulemakings. If you or your staff have any questions regarding the enclosed concept paper, please contact me or your staff may call Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-1859.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

Enclosure

AL-11-002-0127

Jeff Sessions
Mark Pryor

United States Senators

NATIONAL PRAYER BREAKFAST CO-CHAIRS

November 15, 2011

The Honorable Lisa P. Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20004-2403

Dear Mr. and Mrs. Jackson:

On behalf of the Congressional Committee, we have the pleasure of inviting you to join us for the 60th National Prayer Breakfast, which will be held on Thursday, February 2, 2012, at 7:30 a.m. at the Washington Hilton in Washington, D.C.

Annually, Members of Congress, the President of the United States, and other national leaders gather to reaffirm our trust in God and recognize the reconciling power of prayer. Friends and leaders throughout the United States and from more than 140 countries come in the spirit of friendship to set aside differences and seek to build and strengthen relationships through our love for God and care for one another. Although we face tremendous challenges each day, our hearts can be strengthened both individually and collectively as we seek God's wisdom and guidance together.

Your prompt response is essential and greatly appreciated. We hope you will be able to join us for this special occasion.

Sincerely,

Jeff Sessions

Mark Pryor

NPB 5

PHONE (202) 266-9970 FAX (202) 266-9978
E-MAIL: NPB@INTFRIENDS.US